



**“Family business succession dispute: How to reach a faster agreement through
Mediation”**

By

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Table of Contents

1. Title.....	7
2. Declaration.....	8
3. Acknowledgments.....	9
4. Abstract.....	10
5. Introduction.....	11
5.1 Background of the Research Problem.....	11
5.2 Research Questions and Aims.....	12
5.21 <i>Sub Research Questions</i>	13
5.3 Dissertation Approach Planned.....	13
5.4 Expected Limitations and Scope of Research.....	14
5.5 Contribution of the Study.....	14
6. Literature Review.....	15
6.1 Introduction.....	15
6.2 Theories, Variables and Area of Interest.....	17
6.21 <i>Previous Studies to Encourage This Research</i>	18
6.22 <i>Addition to Literature by This Study</i>	19
6.23 <i>Value Generated by This Addition</i>	20
6.24 <i>Procedure to Add Value</i>	21
6.3 Rationale for Study.....	22
6.31 <i>Connection Clarified with Literature</i>	22
6.32 <i>Presence of Sound Reasoning for Conducting Research</i>	24
6.33 <i>Indication by Literature on How to Conduct Research</i>	26
6.4 Variables Being Tested.....	26
6.41 <i>Family Business Succession Disputes</i>	26
6.42 <i>Mediation</i>	28
6.43 <i>Negotiation</i>	30
6.44 <i>Litigation</i>	31
7. Method.....	32
7.1 Participants.....	32

7.11 Type of Sampling Being Used	33
7.12 Total Number of Participants	33
7.13 Population for Sample	34
7.14 Selection Procedure.....	34
7.15 Circumstances for Participation	35
7.16 Demographics and Psychographics of Sample	35
7.2 Design	36
7.21 Dependent Variables	36
7.22 Independent Variable	36
7.23 Experimental and Control Groups	37
7.24 Assigning Participants to Groups.....	37
7.25 Design of the Study.....	37
7.3 Materials and Apparatus	38
7.31 Interview Guide	38
7.32 Documents Used	40
7.4 Procedure	41
7.41 Detailed Procedure Followed by Participants	41
7.42 Timing and Length of Study	42
7.5 Ethics	42
7.51 Right of Withdrawal.....	43
7.52 Anonymity	44
7.53 Informed Consent.....	44
7.6 Data Analysis Tools.....	45
8. Results.....	45
8.1 Demographics	46
8.2 Difference in Setting of Mediation vs. Courtroom	46
8.3 Impact of Mediations Setting on Disputants.....	47
8.4 Mediator Acting as a Facilitator.....	48
8.5 Language used in Mediation	48
8.6 Privacy in Mediation.....	49
8.7 Expectations of disputants	50
8.8 Changes in expectations of Mediation	51

8.9 Outcomes of Mediation.....	51
8.10 Satisfaction of disputants	52
8.11 Communication Skills of a mediator	53
8.12 Assistance of communication skills in Mediation	54
8.13 Knowledge required by Mediator	54
9. Discussion.....	56
9.1 Aim of Research	57
9.2 Summary of Findings.....	58
9.3 Sub Research Questions.....	60
9.4 Relation of Findings to Literature	61
9.5 Problems in the Study	64
9.6 Future Research	66
9.7 Implication and Application of Results	68
9.8 Conclusion.....	70
<i>References</i>	72
Appendix.....	76
Appendix A- Interview Guide	76
Appendix B - Informed Consent Form for Survey & Interview	77
Appendix C- Interview 1	78
Appendix D- Interview 2	82
Appendix E- Interview 3.....	87

1. Title

Family business succession dispute: How to reach a faster agreement through Mediation?

2. Declaration

I, Mariana Tannous de Souza, declare that this thesis is my own work and is not related to any work which has previously been submitted on this topic. All secondary material which has been accessed has been adequately referenced in the material below.

3. Acknowledgments

I would like to thank my family and all my friends for their support during my final dissertation. Without their constant guidance I would not have been able to deliver the level of work which I did. I would also like to express my gratitude towards my dissertation mentor, who gave me constructive feedback throughout the thesis. And made it possible for me to improve and excel in my writing capabilities.

I would also like to thank all the participants who allotted me time from their busy schedules in order to assist with my data collection. Their helps made it possible for me to conduct a valuable study and curate noteworthy results.

4. Abstract

This study is set out to test whether mediation is one of the fastest ways to reach an agreement in the case of family business succession disputes. The focus of the study was to determine that whether mediation is an effective way or litigation when compared with each other. Mediation is a type of, alternative dispute resolution, which is efficient and effective, whereas court appeals are costly and time consuming. With the help of secondary data analysis this study was able to narrow down its focus on that mediation is a fastest way to resolve the family dispute or courts. In this study a comparison between negotiation and mediation is also done. Primary data was collected by conducting three interviews of Brazilian family businesses. This study has concluded that mediation is the one fastest and effective way to reach to an agreement and to solve the disputes.

5. Introduction

5.1 Background of the Research Problem

Each family business is different from one another and it has its own working atmosphere. However, when planning a family business succession there are a lot of similarities. Family business is defined as a business in which two or more than two family members are involved and the major part of the ownership belongs to the family (Naude, 2010). One of the earliest types of business organization is family business.

Family business signifies a huge part in the global GDP. The estimated economic impact in the total GDP because of family business is more than seventy percent (Osunde, 2017). Due to this reason it is necessary to resolve family dispute successions as it is mentioned in Family firm institutes that owners of family businesses like to see their business moved to the next generation. However it is assessed that 70% of the family businesses will not survive in the second generation and 90% will fail to make it in the third generation (Osunde, 2017). The main problem is that they do not organize a plan of succession, and when they lose the head of the company and family, the business faces challenges (Walsh, 2011). Family business is transmitting the assets and ownership to the next generation.

There is a time when businesses have to deal with succession that has not been planned before. They do not know what should they do, often times they appeal to court. Appealing in the court is a long and expensive procedure. Apart from this, it causes financial as well as emotional damages to businesses and families.

Another way to resolve these family business disputes is through “Alternative Dispute Resolution” (ADR). Alternative dispute resolution is a process for solving disputes without any

proceedings, for example, mediation, arbitration or negotiation. The process of ADR is cheap and quick. It is a more preferred way as it is different from confrontational litigation (Haynes et al., 1997).

The process of ADR is collaborative and allows different parties to understand each other. Another advantage of ADR is that they can make a settlement out of the court which might not be acceptable in court (Friedman & Lord, 2004). Mediation can be scheduled within few weeks and the dispute can be solved in one day. This process involves the cost of the mediator, the third party, but it is really less when compared to the cost of the court (Haynes et al., 1997). This process saves time, money and emotional damages.

5.2 Research Questions and Aims

The main goal of this research is to collect data to prove that apart from the court there is an easier method to solve conflicts which is known as ADR. In this research our main focus would be on one the form of ADR i.e. mediation. We will be aiming to see which process is more advisable when solving family disputes, mediation, arbitration or negotiation.

Research Question

Is mediation a faster route in reaching to an agreement when considering family business succession disputes?

Particularly, the study has the following objectives:

- To investigate if, for family companies, ADR (mediation, arbitration or negotiation) is a faster and easier process to reach an agreement in a succession dispute than the usual court process.

- Identify the conflict and to show the possible causes and possible ways to resolve it through mediation.
- To show the possible emotional damages to families and businesses when they visit courts.

5.21 Sub Research Questions

The following are the sub research question:

- Does mediation plays an effective role in solving family business succession disputes?
- Can negotiation be also used in solving family business succession disputes?
- Do parties still believe that courts are a better way in resolving and settling the disputes in businesses?

5.3 Dissertation Approach Planned

The research is conducted in such a way that it focuses more upon the qualitative analysis so the data can be thoroughly studied to understand that whether ADR helps to resolve disputes in family businesses and how families can be benefitted through ADR.

The secondary research will be focusing on the literature review which will be a combination of the detailed analysis of different articles. However primary research will be focused on conducting interviews of individuals owning a family business. Initial research will be focusing on the insights and opinions of families which involve disputes regarding their succession. Data will be categorized in three major ways: firstly when a mediator is to be decided for the purpose of succession will be involved or not. Secondly, when a mediator or a third party gets involved between the family members to make the decision and thirdly when

there is involvement of the court. All the data for each of the situation will be gathered and analyzed to conclude the research. This research will include a specific timeline.

5.4 Expected Limitations and Scope of Research

Firstly this research was to be conducted on a much broader level and a greater sample was to be selected for the data analysis but due to the unexpected pandemic COVID-19 the research has become limited. Limitations due to this pandemic made the scope of this research limited to a certain level. Most of the data was gathered online as there were strict regulations by the government to follow the standard protocol of social distancing.

Furthermore this pandemic not only affected the way research was conducted but it also has an impact on the researcher. Face to face interaction which helps the researcher to keenly observe the interviewee was not possible due to which data sets were limited and their detailed analysis was difficult. The researcher's direct involvement is very important as it adds an element of opinion by the interviewee.

Quantitative data was limited due to a smaller sample which further restricted the researcher from getting a deep understanding and opinions of different people. This research has more of a qualitative approach which provides information about the existing data and limits to comprehend the new factors which are based on the current situation. Biasness of the respondent cannot be determined as most of the data collected is online.

5.5 Contribution of the Study

This study will help in understanding that family disputes can be solved through mediation or in courts. This involves qualitative analysis which is a combination of literature from different articles. Family disputes cannot be solved until the parties involved are not aware

of different channels which can be opted for this purpose so this study explains the use of ADR. Two major forms of ADR are mediation and negotiation.

Furthermore, this study acts as an awareness tool, to find an efficient and effective solution to family disputes seeking help from outsiders such as a mediator or arbitrator; or through formal institutions are which is important. Families may not consider it important or they might not be willing to pay a specialist, who can provide them with the legal advice but a state of denial from seeking help or ignorance might have an adverse effect on the dispute to such a level where recovery might not be possible. So this research endorses the importance of ADR which provides an alternative solution for the dispute.

6. Literature Review

6.1 Introduction

Disputes are of various types which vary according to belief, probate and inheritance. Disputes which occur in the context of probate comprise of the validation of the will, construction of the will and the management of the descendant's property. Such disputes are commonly amongst the people who are the inheritors of the descendant's property or the ones who are directly benefited from the will. Others who get involved in to such disputes are the relatives of the inheritors and people who have given credit for the land. Disputes which occur due to trust issues are between the beneficiaries and trustee or the recipients of the trust (Jones & Yarn, 2003). Law of guardianship disputes emerge when guardianship or conservatorship is justified or not. It involves the positioning of the guardian and the conservator; also the limit of power is decided for both of the positions. The conditions are decided in a way through which the ward should live and the management of the ward is also planned. These disputes result in

the involvement of courts which further add expenses to the families even to the guardianship resources which result in huge losses (Gary, 1997).

ADR (alternative dispute resolution) is a process which comprises of formal and informal methods which helps in reaching a solution for these disputes (Jones & Yarn, 2003). Solutions derived from ADR are efficient, reliable and effective, they are much less time consuming and easier as compared to solutions reached from approaching the court. Many families use different ways to counter these disputes and prevent themselves from litigation. ADR consists of certain elements which are negotiation along with settlement, arbitration and mediation (Jones & Yarn, 2003).

Negotiation and settlement are one of the famous ways of handling a dispute. The two parties without the involvement of a third party reach to a conclusion which provides a solution to their problem. Even though these decisions are made outside the court but to avoid any problem in the future an agreement is signed between the two parties which is submitted in to the court so either of the parties cannot turn against the agreement. In this way the court lawfully binds the parties to the agreement and a settlement is made. In negotiations, a third party is not involved; the contract is made between the two parties. This type of resolution is an efficient way to cater the dispute but it also has some negative effects. Both parties try to maximize their benefits and try to avoid any sacrifices which lead to difficulties in developing an agreement between the two parties and dispute remains unsolved (Gary, 1997).

Mediation is a technique which involves a third party in to the agreement and that party acts as a mediator in resolving the dispute between the parties. It is one of the finest techniques of ADR used today for catering to different types of disputes such as succession (Radford, 2000). Even though a mediator is a neutral party but it plays different kinds of roles. It acts as a

messenger to communicate messages; it provides knowledge according to the context of the dispute which makes it seem like an educator. The mediator provides assistance with different kinds of facilities. Moreover it interprets information and provides a reality check to the party; also it is the guardian of all the details shared. Every mediator plays different roles according to the context of the situation and demand of the party (Radford, 2000).

The expression "arbitration" is known to a great number of people, despite the fact that they might not have taken an interest or have been part of one. In arbitration, the gatherings present the case to an unbiased outsider or board that in this manner settles on a choice on the issues. In the probate and trust setting, the departed benefactor can coordinate discretion; the gatherings can consent to arbitration ahead of time in a report. The gatherings can consent to assertion under the watchful eye of law or the court can guide it (Gary, 1997). Many of the retired judges and lawyers are trained to be arbitrators and serve as a third party between the two conflicting parties. There may be a list prepared by the court which comprises of arbitrators and parties can choose accordingly. These parties may follow a procedure of arbitration or follow a model in which rules are set.

6.2 Theories, Variables and Area of Interest

In the past few years the importance of ADR has grown to a significant level. It is seen as a technique to resolve disputes. This research explains that how it can be used and how affective it is as compared to resolving disputes in court. In the past, scholars use to recommend that disputes should be solved through litigation and ADR was considered as a useless procedure. As the number of complaints about injustice and unfair settlements by the courts has risen ADR has influenced a large number of people, it is no longer perceived as just a trend which might end after a short period of time or a fashionable idea (Edwards, 1986).

Many scholars have taken it into consideration and made serious discussions that how ADR can be highly beneficial. ADR movement helps in reaching the solution which is fair for both the parties as compared to the traditional court systems which is mostly expensive and a hard way to pass through. In this research of ADR we will be focusing on mediation. It is a technique which is must faster, does not include any formality and most importantly both the parties will reach on an agreement which is fair unlike the arbitration or court which might provide a solution unfair to one of the parties.

One type of ADR is mediation that acts differently, as in a dispute it provides control over the whole procedure (Edwards, 1986). Also mediation is much more useful as it is a procedure which can solve multisided sided disputes. In arbitration or a traditional court case if the parties who have a dispute with each other exceed more than three in number then it becomes very difficult to reach a conclusion and becomes unmanageable (Wald, 1985). This paper thoroughly explains the use of mediation especially in the case of succession dispute. Both public and judicial policies are highly in favor of mediation instead of long and never ending hearings in court (Wald, 1985).

6.21 Previous Studies to Encourage This Research

According to literature regarding succession disputes, it suggests that families tend to ignore and avoid succession planning. Also training to the successor is not provided which leads to many difficulties in the future. In a study it was founded that families are not even willing for planning of succession and because of their ignorance the business is adversely affected and most of the businesses do not survive more than one generation (Rosenblatt, 1986). Furthermore, a study suggests that families who have a well-constructed plan for their succession and have maintained good communication with their stakeholders, those families turn out to be more

successful and profitable in the future, thus, their business survives for a longer period of time (Christensen, 1953).

In an investigation 200 families who were to face succession were studied and it was found that making arrangements for progression and development of a successor were among the most significant qualities related with organizations that faced a generational change (Trow, 1961). The impact of family connections can both encourage and block planning for progression and training of successor (Ward, 2016).

To counter such problems ADR is suggested as a solution in the literature. It explains that with affective mediation it can help find a solution for justified allocation of wealth in a family. Furthermore it is a procedure which helps maintain the privacy of sensitive information and help find creative solutions which are not possible in the hearing of a court. Most of the literature concludes mediation as the most effective solution to resolve succession disputes.

6.22 Addition to Literature by This Study

This study primarily focuses on how the expense and time frame can be reduced using ADR (Lieberman & Henry, 1986). This research is a detailed extension of the studies which have previously proven that mediation can bring beneficial outcomes and improve the quality of decisions. Moreover this research evaluates the conflict resolution which explains that failure in finding a solution for disputes is due to lack of communication and trust between the parties. Each party tries to extract their benefits from the agreement and for which they even bluff or provide false information in order to attain more benefits which result in negative outcomes (Deutsch, et al., 2011).

This research comprises of three variables. It studies that how negotiation, mediation and the court helps in solving the succession disputes, also a comparison is made between the three variables to conclude which element is more affective. This will provide an understanding that how mediation is best suitable for succession disputes.

A detailed analysis is made which interlinks mediation with succession dispute. It is to determine that whether through mediation disputes can be solved and if that is possible than how affective is the solution. It will also help to find out that how many parties can mediation cater to during a dispute as arbitration or courts might not be able to manage more than three parties which result in an unjustified decision.

6.23 Value Generated by This Addition

This research has used an approach which links mediation as a solution to the succession dispute in family businesses. Effects of ADR on disputes is also analyzed which confirms its reliability as a procedure which helps in establishing an agreement between two parties. Study of mediation with respect to succession dispute is a unique aspect of this study because most of the literature deals with ADR solving disputes in general, there is no specification.

This study further adds that families need to adapt an informed approach to counter disputes as this helps in adapting mediation for cases like succession disputes (Akhtar, 2019). Taking help from the court to solve disputes should be refrained, as to spare costs, time and revealing of issues that are private and frequently concern family bequests and the division of benefits. In these conditions where meditation can be used the cycle of ADR should start. The legitimate delegate can provide help in counseling, also can prepare documents and be a middle

person between the party and the mediator. Mediation will directly benefit the client and will help maintain the fiduciary relationship in disputes (Akhtar, 2019).

6.24 Procedure to Add Value

A qualitative approach is used, so a thorough analysis of different researches will be done to have a better understanding of the data. Detailed interviews of different business families will be conducted so that a comparison can be made between the new data collected and already existing data from previous researches.

Various voluntary and customary approaches are present in ADR (Alternative dispute resolution), they are used in finding a flexible and easy going solution for the disputes. There are many types of ADR which include negotiation which can include two or more parties, mediation which plays a great role in solving disputes and arbitration. ADR can be defined as a technique which is used to achieve the goal of solving disputes and reaching an agreement (Goldberg, et al., 2014).

ADR has various types and to define which is the most effective a detailed study of the previous researches is required. Due to this pandemic, direct interaction is not possible so to cater this problem zoom meetings will be held for the interviews. If the current situation would have been better than interviews would have been made personally and would not have been limited. To make the research more specific and maintain content quality several case studies were analyzed. Information from case studies was used along with the existing research to add value to the study.

6.3 Rationale for Study

The significance of this study is that it will help in determining and exploring the reason that why family businesses fail in their succession plan and in consequence the families are broken down. Businesses face financial damages and families personal feelings get hurt (Barnes & Hershon, 1976). And to resolve their issue they find only one solution that is appeal to the court.

This study will make a major contribution in the field of family businesses. First of all it is important for families to do planning for the succession of the family business; and still if disputes arise, so instead of going to go to the courts it is better to involve a third party as a mediator so that it can bring countless benefits to the business and family (Barnes & Hershon, 1976).

Family businesses might recognize that mediation is less destructive to businesses and is beneficial for it. However litigation is harmful for businesses as it causes severe damage to businesses and makes family members against each other (Ayres, 1990). It does not affect only family members but also non family members that include managers, employees, competitors and investors (Barnes & Hershon, 1976). As company moves from one generation to another each one of them have developing interests, either negative or positive. Though, if businesses use mediation or negotiation or arbitration to resolve their disputes, it might bring families together and strengthen the businesses (Ayres, 1990).

6.31 Connection Clarified with Literature

Those businesses are more profitable which have developed their succession plan and communicated it to its investors, as compared to those businesses who have not planned anything

(Trow, 1961). A study of 200 family businesses was conducted which determined that succession planning and establishing successor is one of the most significant feature for businesses which can survive in succession (Ward, 2016).

There are many aspects which have been identified such that because of lack of planning and organizing, the family businesses have led to demise. The literature explains, if planning and training are put on hold and death of the owner takes place so family business might lose its managerial assets, knowledge of market and products, as well as the external connections with suppliers and customers (d'Amboise & Muldowney, 1988).

The time comes when they have to choose the successor among the siblings so it is considered as parental biasness which leads to rivalries between brothers and sisters. This will not only have disputes in the family but will also postpone the transition of succession (Friedman, 1991). And to resolve this issue they might take it to court and instead of it being beneficial for them, they will face more problems.

Lansberg & Astrachan (1994), suggested that succession planning should be clear and should devise practical visualization of the business after progression, the criteria to choose successor, appropriate design to manage the structure of business and family, both.

Because of the above stated reasons, it is important to choose a better way for resolving family succession disputes. Negotiation is also a one way but it might have difficulties in resolving the problem. Another technique for resolving business disputes are mediation which is relatively a new technique introduced. However, many businesses trust litigation as it is common but it is more costly (Friedman & Lord, 2004). The introduction of mediation for business techniques will be beneficial as mediation involves a third party who listen to the discussion of

both parties and help them to come to conclusion. It accepts a broader range of solutions, unlike litigation which means different and creative solutions can be considered (Friedman & Lord, 2004).

6.32 Presence of Sound Reasoning for Conducting Research

The limited research available suggests as family businesses avoid beforehand planning for succession of business which further leads to severe consequences for both, business as well as for family. In family businesses relationships are interpersonal and because of this intra business disputes make it harsher and more difficult. A peace-making procedure for solving these conflicts is the best solution as it can secure relationships and keep everyone satisfied. Instead of taking their disputes in court and making a big problem it is better to negotiate or mediate.

Mediation is the rapidly growing favorable method for resolving disputes and it is also used in family business context. It causes fewer damages in terms of finance as well as feelings. The likelihood for “give and take” is maximized when third part takes initiative (Haynes, 1982). In mediation it is not up to mediator to decide what is wrong or what is right, he just plays a role of facilitator so he can remove the barrier between the parties. Mediator helps in assessing the interests of both parties, recognizing the strengths and weaknesses so he can come up with a mutual decision or solution.

The idea is very important to understand in this research that mediation is the best solution for solving family business succession disputes (Haynes et al., 1997). It is possible if the parties do not come to consent or agree mutually through mediation. In this case they will not face any drawback as they will still have an opportunity to take their case to court. If resolving a

dispute through mediation, the parties do not face any future consequences if they are not able to resolve their problem via mediator. However, it is mentioned, resolution rate through mediation is 75% to 85% (Haynes, 1982).

According to Kaye (1991), mediation can effectively solve any kind of issue which creates any disruption or distraction for family members. The problems that can be solved through mediation are succession conflicts, fight over power management, differences in defining future objectives of the company, investment or reinvestment issues, complications arose by the divorce of one of the partner and many more (Haynes et al., 1997).

Recommending a family for mediation is quite often a valuable decision for any lawyer speaking to a privately-owned company. It's likewise an ideal decision for different guides, for example, financial planners, family business specialists and accountants (Kaye, 1991). The job of most lawyers who portrays family business is one that expands well giving lawful guidance. For most privately-run company lawyers, and for different counsels, too, the relationship with relatives is one that requires a serious extent of trust, and one that takes on a serious extent of closeness. Numerous relatives who are ready to go together are so family situated that they frequently consider their counselors as extended family individuals. This can create individual clash for the lawyer or other consultant (Kaye, 1991).

While mediation can absolutely b helpful at those occasions, the best an ideal opportunity to make a referral to mediation is during the soonest phases of a contention (Haynes et al., 1997). It assists in making referral before relatives have taken external help that outlines the contention in antagonistic terms. Intervention is utilized to keep organizations profitable and to keep families together

6.33 Indication by Literature on How to Conduct Research

In previous literature mostly qualitative research has been conducted. One of the researches was conducted in Poland. They had conducted longitudinal qualitative data to deeply understand the conflicts and process for resolving them so they can assess the quality of implementation (Blattman et al., 2014). The design for the research they used helped them to do comparative analysis of treated parties before and after of mediation.

In previous studies to conduct research mainly, interviews were conducted in which a wide range of topics were discussed that included behavior after dispute, reactions to mediation, and further use in ADR. The interviews they took were transcribed and interpreted through thematic coding rules (Blattman et al., 2014).

6.4 Variables Being Tested

The succession disputes were previously linked only with ADR in general, but in this section each variable will be explained in detail to provide a better understanding of the effect of different types of ADR on succession disputes. Mediation is considered as the most effective way of dealing with disputes as a proper procedure is followed which is much more flexible and less costly as compared to others. Therefore, this study will explain each variable which includes Mediation, negotiation, litigation, and their effect on succession dispute.

6.41 Family Business Succession Disputes

Family is an association with business purposes, gathering individuals with regular interests connected to an outer situation (Seymour, 1991). A family business is characterized as being carried out by more than one generation and it must include at least one member of family in the second generation. It is additionally a viable procedure to save the family riches and

resources, family custom, methods of working together, etc., inside a group of individuals who have a similar way of living (Seymour, 1991).

The most important thing in literature of family business is planning of succession. Succession planning is significant in family business but it is mostly ignored and when it is considered it creates a lot of tension. However, its main motive is to maintain the continuity of business across generation to generations. It also helps in keeping family harmony. The definition by Lansberg (1988) “Succession planning means making the preparations necessary to ensure harmony of the family and the continuity of the enterprise through the next generation”.

Progression is one of the most troublesome choices for the privately-owned company, but at the same time is one of the most vital (Molly et al., 2010). For most of the privately-owned companies, progression is an exceptionally muddled measure and can act as an obstacle. Issues that privately-run companies face at the hour of progression can demolish family connections and can cause clashes that could prompt to destroy the business (Fattoum & Fayolle, 2009).

As planning of succession is already a crucial stage in family business which might lead to failures of business and damage it. It could also lead to disputes. These disputes can be solved by appealing to courts which is an expensive form and also does not guarantees that decision will be made in the party’s favor.

Succession is definitely not only occasion that happens when the older head resigns and passes the light to the new pioneer, however a procedure is driven by improvement that starts at a very early stage of life of certain families and proceeds through development and maturing of ages (Gashi, 2013)

The motive behind the succession is to guarantee the accomplishment of the business later on, and simultaneously be free of the active CEO. The privately-run company ought to be left to the future owner in the most ideal condition so he can undoubtedly coordinate into the business and proceed with its prosperity (Gashi, 2013).

6.42 Mediation

Mediation is a process which involves a third person to provide a resolution of dispute between the two parties. It is one of the oldest and most used methods for making an agreement between two parties. The will or suggestion document may involve mediation, in such a case parties might decide themselves to use mediation or court refers to them. There are two types of mediation Mandatory mediation and Voluntary mediation (Ramsbotham et al., 2011)

Mediation is made mandatory or encouraged by the courts. Those who opt for mandatory mediation consider this method not only a way to promote effectiveness of the court system but also the way of getting positive and beneficial outcomes from it (Rock, 347). In private mediations there is complete freedom of choice for the parties to choose any mediator they want, which will provide them with maximum benefits. There is no need of any specialization or training for the party chosen as a mediator. Mediator play many significant roles, although it is the third neutral party but also acts as the party who educates, communicates, expands the resources, safe keep the details and provides the two parties with an interpretation. These are the different styles of the mediator and every party chooses the mediator according to their own requirements.

In the broader context, the mediator which is effective evaluates the whole case and provides prediction for the courts outcome in accordance with the strengths and weaknesses of

both the parties. The evaluative middle person additionally provides the parties with a solution. More over the facilitative mediator give importance to maximization of the party's abilities so that a solution can be devised which is not only efficient but also help both parties to move in collaboration in future (Chester, 1998).

The technique followed in mediation procedure relies on large number of components for example desire of the party involved and the style of mediation. The procedure of mediation includes a series of steps. Initially mediator explains the whole process and explains the case in detail. The mediator's first preference is to resolve the party's dispute before them. Second step is to identify the problem (Rock, 347). The mediator gives an opportunity to each party to explain their problem. A series of questions and answers are made to clarify the situation and the other party is not allowed to speak during the explanation of the first party. A summary is prepared by the mediator after listening to both the parties and then the common issues which are raised are addressed. While addressing the session if a mediator or any party wants to have a conversation in private, their privacy is respected (Chester, 1998). This gives a chance to any of the parties to discuss any sensitive issue with the mediator. After the discussion a brainstorming session takes place in which a number of solutions are presented then the summary of the results is written, mostly in succession disputes where there is the distribution of property a written or signed agreement is made especially for the party who has the decision against it (Ramsbotham et al., 2011). Mediation is the best possible way of dealing succession disputes. These kinds of disputes affect both emotionally and financially, it may also worsen the relationship between the families so mediation is a way which is cheap as compared to court, consumes much time and helps in providing justice to both the parties.

6.43 Negotiation

Succession conflicts are likely to occur, to resolve these disputes, traditional techniques can be useful. So as to safeguard the recognizable idea of organization's parity after some time it is important to comprehend, foresee and deal with the contentions that emerge at various phases of the progression cycle between ages (Caputo, 2013). Negotiations theory has been introduced, which is expected, as a chief objective of the examinations, the improvement of methods and models to tackle business issues and furthermore political clashes. In the field of study on key methods of collaboration between organizations, the philosophers have extended the part of dynamic cycles regularly known as "negotiations" (Gulliver, 1979).

Few authors describe negotiations as process of decision making which is targeted as solution to resolve conflict (Zartman, 1977). Negotiation is also defined as a combined process between two or more than parties to join contradictory points of each other in same direction (Zartman, 1977). Negotiation is considered as both ways, first it is a way in which mutual decision is taken between multiple parties and secondly it is also considered as a process Gatti (2008). Negotiations happen in a circumstance where at least two gatherings have an irreconcilable situation, and yet share a zone of possible agreement (ZOPA) due to which contrasts can be settled. In these cases, the gatherings want to determine the contention through a shared understanding as opposed to taking harder and enduring strategies (Zartman, 1977).

Negotiation can consume time and can put mental stress on both the parties but it is one of the most used methods. It is easily applicable on different situation and also it includes no formality which makes it easy to use and acceptable among in homes and communities. As it is a mutual agreement between two parties so people easily extract benefits by communicating with each other (Gashi, 2013).

6.44 Litigation

Litigation is a process which follows a formal protocol used to find the solution for public disputes. It takes place in to court in front of the judge and jury. Strict rules are followed which are enforced by law and it has a special code of conduct (Friedman & Lord, 2004). Litigation involves a case which is known as suit or law suit and it is presented in the court. Litigants are the parties who are involved in the cases and they comprise of applicant, petitioner and respondent etc. litigation is avoided as it has certain disadvantages, it is not time efficient, courts decisions take a lot of time. It is a long process which has to go through many stages and processes even before the trial starts.

According to a research once a senior lawyer was telling to their junior lawyers that it has a very long paper work which never ends, it takes approximately three years for a decision to be made through litigation (Osunde, 2017). For a dispute to be settled through litigation is very expensive for both the parties. Courts are always there to make the decision but the problem is the high bills of lawyers which become unaffordable at a certain point, a normal trial takes months to reach to its decision and during this time period fees of the witnesses, expert fess etc become really hard to pay (Friedman & Lord, 2004). Eminently, the pre-activity phase of procedures can regularly be a very tedious and an immensely exorbitant exercise. Also, the vulnerability of the timeframe that a preliminary may utilize will raise the costs and expenses time to time.

Litigation cannot be considered as a process of resolving problems, it is a process in which parties take place to win the arguments. The richer parties are able to hire qualified and the best lawyers to fight for their case in the court (Ayres, 1990). If the party is rich enough so

they can also convince the judge to make a decision in their favor. That's why appealing to case is not a better way for resolving the succession disputes as it can have biased results.

The disputes that involve technical issues are not suitable to resolve via litigation because the judge or jury may lack experience or knowledge in that specific issue between two parties and might not be able to make the right result.

7. Method

7.1 Participants

The participants of this study have to be selected very carefully and wisely as they are the significant part of the qualitative research. In this research the honesty and reliability of the final sample is very significant as the participants should have the key information on the area of study. The selection of participants will involve knowledge, experience and those members who will be having their family businesses.

This study will be collecting qualitative data via conducting interviews and its questions are designed with the support of literature. The questions will be asked to the disputants to get a better insight that what is their preference, either to resolve the issue through court, or mediation.

Due to Covid'19 the research design has been amended a little bit. However first preference will be to conduct interviews face to face and by setting a meeting with the participants. Otherwise interviews might be conducted on zoom, depending on the situation. The main goal of the study is to collect reliable data, so as long as participants can be contacted there will be no compromise on the research.

7.11 Type of Sampling Being Used

Sampling is a procedure which involves the selection and search of those participants that are able to provide rich data for specific research that is conducted (Moser & Korstjens, 2018). In this qualitative research, the researcher could consider purposive sampling, convenience sampling or snowball sampling.

The main objective of this study is to choose those participants that are willing to share the information and have knowledge and experience in the family businesses. Keeping it in mind, in this research the sampling techniques to be used will be snowball sampling. This technique allows meeting and getting in touch with the willing participants from the researcher's contact. They can bring more participants who will be having same demographic and psychographics. In this research we require the members of family businesses owners or disputants. Through the snowball sampling the researcher will be able to have a sample of different family business owners through one another with the same profile.

This technique is quicker as it not only saves time but also helps in finding more relevant participants for the study. In time of this pandemic, snowball sampling is a good technique to be followed.

7.12 Total Number of Participants

As qualitative research is being followed in which interviews will be conducted so the number of participants to be interviewed will be at least three. First of all it is a sensitive topic and many people would not like to talk about their business issues so openly. Secondly due to COVID'19, it has made a substantial amount of damage and has increased the level of difficulty to access more people.

7.13 Population for Sample

The population which was considered will be families of Brazil who will have family owned businesses. In this research Brazilian businesses will be considered. The owners of family businesses selected have a business that is at least 20 years old. The population will include those families who have faced family disputes regarding succession or are facing the issues currently. The population will be experienced, will have good knowledge of the courts and will be familiar with annual dispute resolution. This is because as they could tell us that what type of fatigue they face when they take their issues to courts.

7.14 Selection Procedure

The participants were selected by identifying one or two owners of family businesses in Brazil. From there these Brazilian owners were asked to bring other owners so they can be interviewed. They were told the requirements that they should belong to high socio economic class, their business is at least twenty years old and are the users of courts. The one owner was able to bring 2 family business owners and with reference of another owner, he was able to bring 2 more businesses. With the help of the connections of Brazilian family owned business owners, we were able to have 5 participants with whom the interview can be conducted.

The snowball sampling technique is a quick technique as it helped in saving time as well as effort of the researcher. Additionally it has been also helpful during this pandemic as participants will be more comfortable in giving interviews to the researcher, with the reference of the known business. If they were asked by an unknown research student so it might be possible that they won't show any interest and ignore the researcher's request.

7.15 Circumstances for Participation

The participants elected have taken out their precious time to give their feedback regarding their business so for that purpose participants will be given a thank you card to show gratitude towards everyone. If the interviews will be conducted face to face, then the participants will be given card in their hands and if the interviews are conducted by a third person in Brazil then digital cards will be emailed to the participants. It all depends on the pandemic situation.

This will be announced to the participants so they are encouraged to take part in the study and respond to the interview questions as close to reality as possible.

7.16 Demographics and Psychographics of Sample

The demographic and psychographic profile of the participants was very important for the purpose of study. In terms of demographics the participants that were chosen should be at least in their twenties, especially those who are facing the problem of family succession disputes. The participants were expected to be residents of Brazil to create easiness in the collection of data.

Furthermore, gender specification was considered as it was preferred to have male participants as mostly the successors of family businesses are men. They are the ones who face family disputes and the whole family business is depending on them when the main owner retires.

When talking about psychographics, they should have be part of their business and should have enough experience that they are enough knowledgeable regarding their business. Moreover, it was important that they have or our facing family disputes with regards of daily businesses. They should also be court users.

7.2 Design

The design of this research is stimulated by the prior research. In previous studies, that data that has been collected is qualitative form. The previous researches were driven by adopting data from public sources and identifying the trends. More focus was on case studies. In this research we are focused on collecting data from primary source by conducting interviews to know that does mediation plays a significant role in resolving the family business succession disputes. The interviews were conducted on the choice of the participants . The interview guide was designed, consisting of 12 items. The interview guide was inspired by Magiri (2019).

7.21 Dependent Variables

The dependent variable to be tested in this research is Family Business Succession Disputes. It will be seen that what impact dependent variable has on the independent variable. The family dispute succession is explained in the research to give a better idea to participants about the study being conducted. So this can avoid any type of confusion because at this stage confusion can affect the results that are to be obtained. The main aim of the study is to see that apart from court, mediation and negotiation are more suitable solutions to solve family businesses issues regarding successions.

7.22 Independent Variable

In this study there are three independent variables that are being studied in this research, litigation, negotiation and mediation. All these three variables have different effect on the dependent variable i.e. family business succession disputes. In this study these independent variables will help the researcher find that which of the one have the most significant impact and is more advisable for solving the business succession issues. Further the relation is explained in the hypothesis below.

7.23 Experimental and Control Groups

In this study no observation or experiment was being conducted so there was no need to have control groups and complicate the study by having different experimental groups. The entire study was conducted through taking interviews of the participants. At this time it was more important to maintain distance and to have less number of people at one place. Moreover the control groups were of no use in this research as they should have a sound knowledge of the family disputes. This would have not added any value to the research.

7.24 Assigning Participants to Groups

All the participants were interviewed individually as they were given specific time slots. The interview questions were designed in a simple and easy way so the questions are understandable for the participants. The research has tried the best to make it comfortable and less pressurizing research for the participants due to the current pandemic.

7.25 Design of the Study

This study is designed in a way that it is kept simple and easy for the participation. There are three sub research questions that are discussed in this research. First two questions are based on two forms of ADR, mediation and negotiation, that do they have an impact on solving the family succession disputes. Another question to be discussed is between family succession dispute and litigation that still people believe that courts are the best way is resolving their issues.

The following are the sub research questions to be tested in this research:

- Does mediation play an effective role in solving family business succession disputes?
- Can negotiation be also used in solving family business succession disputes?

- Do parties still believe that courts are a better way in resolving and settling the disputes in businesses?

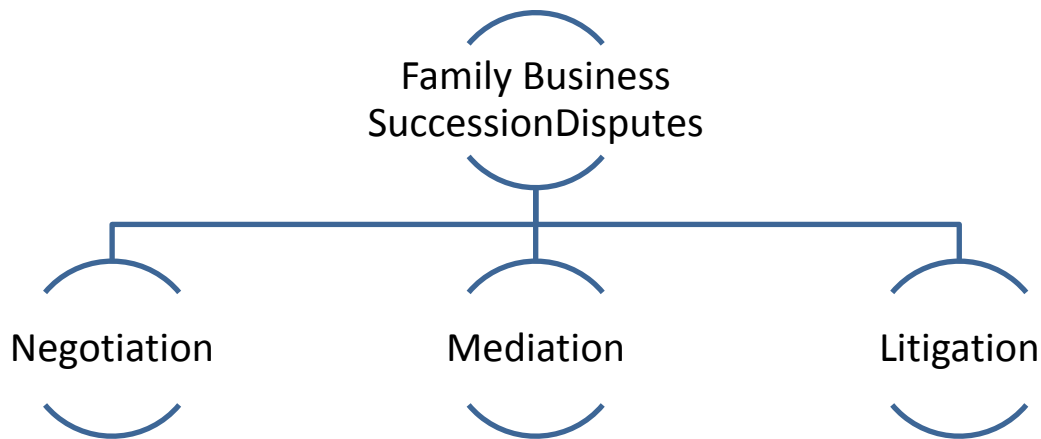


Figure 1: Research Design

7.3 Materials and Apparatus

This study is using an interview guide which consists of 12 questions and has been designed from the study of Magiri (2019). Interviewer will be asking the questions from the interviewee and will be obtaining the qualitative data that will be further analyzed. The interview guide has been attached in the appendix below.

7.31 Interview Guide

This study has been very careful in the design of interview guide as the qualitative data has to be collected and evaluated. In this research it is important to be cautious while obtaining the data. So the questions to be asked should be simple and understandable for the participants.

7.31.1 Number of items

There are total 12 items in the final interview guide to be asked. First of all when conducting the interview, the participants will be asked about their demographic data and about their business. There will be also discussion of their family business. Further they will be asked about the questions that are mentioned in the interview guide. The main focus of questions will be on mediation.

7.31.2 Sample of items used

The demographic questions will be generally asked from the respondents. They will also be interviewed about what type of business they have and what problems they are facing. Further, will add on that have they went to court for resolving their problems. Adding to it what other methods they have tried. Then the questions in the interview guide will be followed which include regarding mediation that does it have different setting from court, are they satisfied from the procedure of mediation, etc.

7.31.3 Instructions for participants

Interviews for research have to be kept private and confidential so every participant was well informed and consent was taken before the interview, also all of their privacy concerns were catered to carry out an ethical research. As interviews take a large amount of time so every participant was made aware and an estimated duration was given so no time issues could arise at the time of interview. A detailed information about the topic was given beforehand and participants were asked to only participate if they are willing to comment on the topic, this research covers sensitive issues like family disputes which may hurt feelings of an individual so the participants in an interview were made fully aware of the sensitivity of the topic and also

they were allowed to not answer the question for which they are not comfortable. These interviews were conducted in a way which maintained the level of integrity of the research.

7.31.4 Reliability and validity of the scale

For the confirmation of the validity of the interviews a protocol was followed which involved the testing of tools used and the interview guide. Tools were tested before hand to ensure the quality of the interview and to refrain from any kind of technical difficulties during the interview (Danis & Kilonzo, 2014). Validity is a way which ensures that results abstracted from the research are accurate and can be generalized to the people. This also determines that research instruments are useful enough to carry out an efficient research (Danis & Kilonzo, 2014). Reliability is used to measure the consistency of results, a method known as pilot test was used to ensure that the instruments which collected the data were valid (Danis & Kilonzo, 2014).

7.31.5 Expected responses

Three respondents were expected and it was predicted that most of respondents will favor the factor that mediation is an effective way to resolve family disputes. This assumption is supported by the fact that previous researches have also favored mediation. Moreover mediation has become common among people; it is seen as the most effective solution for the disputes. Many people get scared from court and try to settle their disputes outside the court and make decisions through mediation so it was depicted that most of the respondents will be in favor of mediation.

7.32 Documents Used

Documents included in this were the consent form which was signed by each participant before giving the interview. This was to ensure that every interview was consensual and also the privacy of every interview was taken care of. Secondly interview guide was also used to make the

conversation less time consuming and meaningful. Both of the documents are given in the appendix below. They make sure that this research has gone through every legal process and to confirm its authenticity.

7.4 Procedure

The procedure followed in this research was based on simplicity, as pandemic has adversely affected lives of the people so to refrain from any complexity, it was kept simple. Comfort of participants was developed to keep them out of stress and confusion. In this study control and experimental groups were not involved as it would have created more chaos in the research. The motive of clarity and ease in the research was reached to make it more effective.

Interviews were taken on 21st September, the time of each interview was estimated to be 30 minutes but bearing in mind that some interviews might last longer than others, every succeeding interview was scheduled an hour after its predecessor. Appointments were taken from the participants and interviews were taken accordingly. Every participant was given ample time to speak so they can make their point in detail.

7.41 Detailed Procedure Followed by Participants

On 18th September each participant was given a confirmation call for the interview. In that conversation time for the interview was confirmed also they were given a brief introduction about the study and the main reason behind this research. Interview guide was emailed so that participants can have a deep understanding of the whole interview for example the way interview was going to be conducted and the type of questions included in it. To make it much easier for the participants who were not willing to have a face to face interaction a link of zoom meeting was sent so they can give their opinion on the study and also be comfortable. Two types of

choices were given to the participants so they can decide themselves that whether they want to give interview face to face or online. Participants were catered in every manner to have an efficient interview.

On 19th of September consent form for the interview was sent to the participants and all details were mentioned in detail, all the participants were asked to read that form in detail to avoid any problems in the future. When all the consent forms were signed 5 participants, were chosen for the interview. 21st September was the date finalized for the interview by consulting all the participants. At least an hour was given to each participant. After taking the interview, as a good gesture each participant was given a thank you card. This was to appreciate their effort of giving their contribution to this research.

7.42 Timing and Length of Study

The interviews were completed in a one day time period but the procedure for interview started three days before the day. In this time period all the information and legalities were completed. The procedure started from 18th of September and interviews were conducted on 21st of September. All the data was collected in three days. There was variation in the time taken for the interview but every participant had at least an hour to give their opinion on the study. Appointments were made according to the participants so they do not feel bounded or any kind of stress.

7.5 Ethics

It is very important for a research to maintain all the ethical standards when collecting data from people. These standards are very important to maintain the integrity of research. Interest not only of the researcher but also the participants should be protected to ensure the reliability of research.

Participants are very important part of the study as they are providing their time to the research and a level of trust should be maintained amongst the researcher and the participants. The data collected in this research and the procedure followed was kept authentic in every possible manner so that it cannot be questioned in the future. A list of strict rules was followed to make this research ethical. Level of comfort was developed to protect not only the participants but also the researcher. All important documents concerning ethical conduct such as form of consent is in the appendix as a proof of all the rules which are to be followed. These documents were signed by all the participants before the interview to prevent any problem of consent and to ensure the reliability of the data

7.51 Right of Withdrawal

It is very important for a research to maintain all the ethical standards when collecting data from people. These standards are very important to maintain the integrity of research. Interest not only of the researcher but also the participants should be protected to ensure the reliability of research. Participants are very important part of the study as they are providing their time to the research and a level of trust should be maintained amongst the researcher and the participants. The data collected in this research and the procedure followed was kept authentic in every possible manner so that it cannot be questioned in the future. A list of strict rules was followed to make this research ethical. Level of comfort was developed to protect not only the participants but also the researcher. All important documents concerning ethical conduct such as form of consent is in the appendix as a proof of all the rules which are to be followed. These documents were signed by all the participants before the interview to prevent any problem of consent and to ensure the reliability of the data

7.52 Anonymity

Anonymity is very important with respect to the privacy of the participants. Apart from the research each person has its own specific work environment and life, so data collected from the participants should be kept confidential and any part of the research should not interfere or affect their personal lives. In this research only the information related to the study was taken from the participant for example their occupation and name, no personal information was involved. Interview was very specific and related to the topic. All efforts were made to create an environment of comfort for the participant. Participants were fully aware of any kind of information recorded by the researcher and its associates. Moreover to ensure the existence of this policy a written agreement was signed by both the participants and the researcher which clearly stated that every information recorded is in the knowledge of participants and researcher has taken the approval of every participant

7.53 Informed Consent

Form of consent is a very important part of the research when data is being collected from humans. Participants who were selected for the interview had a high profile in the society and their organizations. To maintain the integrity of their profile it was ensured that information provided by them was not leaked or shared to someone else. Form of consent was signed by each of the participants along with the researcher. This is a written agreement that information collected will not be used for any other purpose except for the research. All the details of consent form are in the appendix. Consent form was thoroughly explained to the participant before the interview.

7.6 Data Analysis Tools

Data collected in this research is qualitative so all the data is in the form of text and is analyzed. In the analysis of research all the raw data such as interview guide will be transcribed. To further ensure the accuracy and uniformity of data all the information will be converted in to a much organized form. For an efficient qualitative analysis high involvement of the researcher is required. Furthermore researcher needs to get familiar with the data, transcribe it and keep the sensitive data anonymous to maintain the privacy of participant and then finally organize information.

Coding of data is also done in qualitative analysis. It is done by thoroughly analyzing the information. Moreover this information is grouped in to the defined categories according to objectives of the research. Coding helps the researcher to organize the data in to different segments and make the raw data into useful information (Creswell & Creswell, 2017). Coding helps to sort data in such a way that it can be presentable. Also important themes are identified and analyzed. Interpretation of the data is in accordance with the objectives of the research, which further provides a meaningful data that can be included in the research.

8. Results

When discussing the overall results, it is important to account for some biases that may have existed as the interviews have been conducted and the qualitative research is done. The results will be analyzed qualitatively by examining all the answers of interviewees asked them during the interviews. This analysis will help in bringing some clarity on to this rather confusing topic according to literature findings.

8.1 Demographics

In total three interviews have been conducted. As our research topic requires that the interviewees to be interviewed should have business which is at least 20 years old. One of the participants was from *Panela de Gelo*. It is a known family cafe in Brazil and it has been thirty years old business. The participant was forty five years old. Another participant was *Supermercado Paulista*. It is one of the famous supermarkets in the countryside of São Paulo, Brazil, consisting of seven stores and it was established in 1979. The second participant was forty years old. The last participant was from *Posto Chao Preto*. It is a petrol station and it has been more than twenty years that it came to existence. The age of this participant was forty three years old.

All three participants we interviewed were nearly of same age group so this helped us in the analysis of our interviews that all three had a same mindset. Another similarity between them was that they all had experienced mediation and had some experiences regarding it. They already had an idea of mediation and court rooms.

8.2 Difference in Setting of Mediation vs. Courtroom

The first question asked to the interviewees, after getting an idea of their business, was that what they felt was the difference between setting of mediation and the courtrooms. The response to this question of the three interviewees was almost the same. They mentioned that in the setting of mediation, both parties are given an equal chance to present and express themselves. They said they are given the right to explain their problems and to give their opinions. In literature it is also said that mediator gives an opportunity to each party to explain their problem (Chester, 1998). However one of the interviewee said that the court only believes on facts and they only want facts, but on the other hand it is opposite. Mediators need facts but

they give time to the participants to come forward and make their point. Regarding the courts, interviewees said that the decisions are enforced, strict code of conduct is followed and strict rules are enforced by law. This is also supported in previous literature that courts are more formal and are strict in their rules (Friedman & Lord, 2004).

Conclusively it is said that mediation has completely a different setting and environment as compared to courts. The interviewees supported the mediation setting as it had a positive environment helping them solve their problems in an effective way.

8.3 Impact of Mediations Setting on Disputants

The setting of mediation has a major impact on the disputants. When this question was asked to the interviewees they supported the statement that yes, setting of mediation matters a lot and it affects the parties in presenting themselves. One of the interviewee mentioned that mediation has high rate of success because it provides a better atmosphere to the participants where they can express themselves and the mediator listens to them with patience. The atmosphere of mediation helps participants to get things done in a satisfactory way. In an interview, it is also said, that because of the atmosphere of mediation, parties get freedom to speak as this type of opportunity is not given in courts. In courts decorum is to be followed, there are strict rules to be followed and that's why participants have to speak cautiously.

It is mentioned that mediation gives a chance to any of the parties to discuss any sensitive issue with the mediator (Ramsbotham et al., 2011). This shows that because of the setting and atmosphere of mediation parties get a chance to speak freely and discuss sensitive topics such as family disputes succession.

8.4 Mediator Acting as a Facilitator

One of the major roles of mediator is to facilitate the communication between the disputants. The response towards this question was the same as interviewees said that, mediator is acting as a third party so it should try to bring both the parties on the same page so the issue can be resolved. The mediator has to facilitate so they can come to a conclusion. One step of mediation is after asking several questions from both the parties, the summary is prepared by the mediator and the common issues are addressed (Chester, 1998). This means that mediators are the ones, who facilitate the parties by understanding their point of views, making them comfortable so they can open up freely and can clear all the queries or questions they have in their mind. The clients also prefer mediation because instead of getting decisions imposed on them like courts, the parties have a chance to express and mediators to find a best possible solution.

Although one of the interviewee stated his event, that he also believed that it is really important for a mediator to be a good facilitator. The reason is because in his case mediator was not able to assist both the parties in negotiating with each other because of his weak communication skills and this lead to the worst scenario. Both parties were not satisfied. So mediator should be patient, good listener and should have good communication skills (Chester, 1998).

8.5 Language used in Mediation

Be it mediation or be it litigation, language plays an important role in both the situations. Interviewees were asked to comment on that the language used in mediation have any impact on disputants in expressing themselves. One of the interviewee said that language of both the parties is very important so they can communicate and understand each other easily. Linguistic barriers

may result in misconception between the parties and this will increase the chance of miscommunications which will further result in biased or wrong decisions. This statement is supported by Joseph and Taylor (2014) as they mentioned that language enables, or hinders the communication because variations in language of the communicator can either clarify the disputes or create misunderstandings.

Another point of view mentioned by the interviewee was hiring translators might be expensive and parties will not be able to understand each other's exact points which may result in worse condition. Same language removes all the communication gaps. If parties speak in the native language that is understandable by both, it will help in reaching the solution effectively and rightfully. Communication is significant in mediation as it should be clearer.

8.6 Privacy in Mediation

Privacy is one of the most important parts of mediation. Privacy has great influence on disputants when they are articulating their issues. Due to privacy, participants express themselves more openly in mediation than courts. In another study it is mentioned that privacy in these sessions allows disputants to encourage openness and self-expression as they know that their issues will not be made public (Chester, 1998). Everyone can easily share their opinions which are highly regarded in accordance to their emotions and sentiments. Due to privacy, it leads to better solutions as clarity is expressed through free expressions.

One of the participant also supported that privacy is a significant part in mediation as he mentioned that in mediation they are provided with freedom which helps in maintain the usefulness of mediation or else courts are more effective way of getting justice. This participant

was more in favor of courts as he mentioned that guaranteed true justice is not possible in mediation because firstly it is based on opinions and secondly it is conducted in private.

It can be said that it is better to solve family business succession dispute through mediation as it is a private matter and should not be discussed in public.

8.7 Expectations of disputants

Disputants' expectations from mediation were to have a solution which is cost effective as compared to the court and it should be able to offer benefits in the long term. Furthermore they clearly indicated the problems they have faced in courts and they wanted mediation to be time efficient so they can be able to have a solution to their dispute as soon as possible. Most of the disputants compared mediation with courts as they considered it a way or alternative to the hard time they have faced in courts regarding their loss of money on prolonged cases. People who were interviewed supported the facts in literature which stated that mediation can provide an effective solution and they do not have to waste huge amounts of money and time in courts (Lieberman & Henry, 1986). One of the interviewee clearly indicated that they had a very bad experience in courts and that became their reason to shift to a method which can help them solve their never ending case. There was also another side to the mediation which was highlighted by the one of the interviewee. Cost and time efficiency was supported by the interviewee but contradiction came when the effectiveness of solution by mediation was questioned. Decisions made by the courts were more sensible and justifiable accorded to the information gathered from the experience of that interviewee. Further it was concluded that court is more reliable as their decisions can be enforced by law, also agreement made through court is valid and cannot be challenged.

8.8 Changes in expectations of Mediation

Most of the interviewees were satisfied with the results, it was according to what they expected. In the process of mediation they were able to solve their problem and the decision made benefitted them in long term as there were no prolonged hustle and hearings, like in court. According to the interviewee they were relieved from the stress of dispute and were able to focus on their daily lives. They ran their businesses without any dispute. Moreover through mediation justice was made in less time and money. They do not have to waste their money on the case and that was their major expectation from the mediation which was successfully full filled. It was indicated that expectations did not changed but results of the case varied from what the interviewee expected. Decision made in the case was in favor of both the parties and had great benefits for all the people involved in the case. A mutual agreement was signed to reach a solution and it was ensured that the decision made is followed (Lieberman & Henry, 1986).

Apart from these satisfied people who were in favor of mediation there was an interviewee who enlightened our research to the negative aspects of mediation. Interviewee explained that how there was a difference in the expectations and the reality. According to the experience shared, justice was not made in time which incurred him cost equal to the amount which is used in solving the problem through courts. Mediation was not able to solve the case and interviewee had to consult courts, due to which cost to solve the case was doubled. This interview explains the inefficiency of mediation in some cases and it is not favorable to choose mediation as a solution to solve every family dispute.

8.9 Outcomes of Mediation

The major outcome of a mediation explained by the interviewee is the signing of an agreement which ensures that decision made is to be followed along all the restrictions made in

it. These agreements follow all the legalities and any changes cannot be made except there is a typing error or mistake, also this authority of making changes is only given to the courts. Interviewee also mentioned that if there are some conflicts than an agreement is signed which includes points on which both the parties have agreed on and any further disagreement is settled by arranging an another mediation session where further discussions are made, if mediator is not able to solve the dispute than a break is taken to gather more information about the case, this enables the mediator to reach a decision which is unbiased and satisfies both the parties.

One of the interviewee commented on outcomes of mediation that may contradict with the findings made in the literature. It was suggested that mediators are creative and have the ability to come up with solutions that are flexible and can make an easy settlement but according to the interviewee it was totally opposite as he expected that in mediation there will be no limitations in decision making process which exist in a court trial (Barnes & Hershon, 1976). This is the reason a mediator can be creative in deriving solution but interviewee was not able to experience this outcome and results were totally against the expectation made.

8.10 Satisfaction of disputants

In the process of mediation majority of the interviewee were able to reach their specific level of satisfaction as it turned out to be time and cost efficient. They were able to solve their issues and even made a decision of pursuing mediation in future problems or dispute. Interviewees also were satisfied because they got the desired outcome and considered as totally justifiable for both parties. Their experience supported their level of satisfaction. Their statements were in line with the results found in literature. This further strengthened the research which supported the fact that mediation is an effective way of finding a solution to the family disputes (Friedman & Lord, 2004).

Some interviewees were not completely satisfied as the process did not provide them with the results they expected. Although they agreed on the point that both parties were equally benefitted but they did not support the total decision, they thought as it has taken most of their rights which makes it an unfair justice. They considered mediation as a process which does not make their decisions on facts which further leads to the dissatisfaction of the parties exercising mediation as a solution to their problem.

8.11 Communication Skills of a mediator

Qualities of a mediator which were observed by the interviewee was that mediator should be an active listener so that he or she can understand the points of both the parties and explain it further. Constant questioning is required by a mediator to make clarifications, this ensures that no point is misunderstood and the decision made is justified (Haynes, 1982). Empathy is a very major characteristic of a mediator so parties who have brought their case can be satisfied and can trust the mediator for their important decisions. To communicate and explain the decision in depth is a skill which makes a mediator effective and reliable. Furthermore a mediator should have respect for the emotions or feeling of both the parties and should have a sense of how the decision made can affect them especially in the case of a family dispute where relationships are involved and can have a strong impact on an individual. To have emotion intelligence a mediator should be a good negotiator. This helps to convince parties to reach a point where they can agree with each other and can make a settlement. In a way this skill saves time and help reach a solution to the problem (Haynes, 1982).

Patience is required by a mediator so that he can listen to what disputants had to say and then can make a decision which is unbiased and is justified. Interviewee also added that a wise mediator can provide with creative solutions. This element in a mediator acts as a satisfying skill

for both the parties. Often cases are very difficult to handle and might end up having heated arguments, a mediator should have the skill to manage such level of stress and remain calm while making up a decision or else problem would further increase and they might end up with a solution unacceptable to both the parties. These qualities are very important for an efficient mediator, also literature has concluded such type of qualities, which a mediator should possess in order to make mediation an effective way out for the disputants (Haynes, 1982).

8.12 Assistance of communication skills in Mediation

Interviewee interpreted that a mediator with capable communication skills can lead to a satisfied client. Solution to the problem is reached much more easily as both parties are convinced about the decision made and this type of mediator helps them to reach to a mutual agreement in which both parties are benefitted. Effective decision making and creativity is portrayed by these skills which further increases the level of acceptance of mediation by the disputants. People tend to choose mediation as their way out from the disputes, many people are scared from courts and might not present their case which may lead to fights between the families, but mediator with such type of qualities help them to resolve their issue in a much more respected and effective manner. A mediator who lacks these skills will never be able to conclude the case and make a decision for the parties so to make people choose mediation as a solution to their dispute a mediator should possess these skills (Lieberman & Henry, 1986).

8.13 Knowledge required by Mediator

A mediator should have the insights about the case they are going to present on the forum. A mediator without knowledge will not be able to resolve the case and will further lead to a state of confusion amongst the two parties, also the decision can be biased which can largely affect the other party or disputant and they will not be able to reach a mutual agreement as they

will end up fighting. An intelligent mediator has to prepare him or she beforehand as this is a job of great responsibility and making a small mistake can have huge negative impacts. An utter state of confusion might be created which will mislead the argument due to the deficiency of knowledge of the case (Lieberman & Henry, 1986). Information from the interviewee clearly concludes that mediators primarily have to gain the knowledge of the case or else the procedure of mediation would not work in an efficient manner.

9. Discussion

This part of the research explains all the major elements of the study from the aims to actual findings. Also how the existing data can be used in future and what further improvements can be added in to the future research. This part can be considered as a point of reference for the entire research, this will help provide an understanding of the existing data from the literature review and then compare it with the findings. To conduct a research which is conclusive it is important that it should rely on some keen observations and extensive research from reliable sources. While planning for the research it was decided to only evaluate sources which are authentic and dependable. Before interviewing any family, this mindset was developed in order to produce a useful report.

ADR and its types are very important to understand in order to conduct this research. Mediation is considered the most important type of ADR and people consider it as an easy way to resolve their disputes. In mediation less money and time is involved when compared to courts, also decisions made in to courts seems unsatisfactory to many people. Mediation is the process which helps maintain privacy of the disputants so families who have conflict with each other prefer mediation as their way out to their dispute because it is fast, reliable and less costly.

In mediation people tend to communicate with each other through a mediator, this helps them to come up with a decision which is beneficial for both parties and with a compromise from both sides also help maintain the healthy relationship as it was like before the dispute. People consider mediation as a platform where they can explain their point and the problems they are facing, this type of strong communication help reach solutions for the disputes.

9.1 Aim of Research

At first the aim if this study was to determine that only courts or litigation is the only way to resolve family business succession disputes or these disputes can be solved through alternative dispute resolution. Alternative dispute resolution included different types but our main focus was on mediation. This study was conducted to know that does mediation plays an effective role kin solving family succession disputes.

The main objective was to collect data which can help in proving that there is an easier way to resolve disputes instead of going to courts. That easier way is known as alternative dispute resolution (ADR). The main focus of this study was on mediation; however ADR included other methods as well, like arbitration and negotiation. In this research we will be looking at the process that is more advisable, may be it litigation, mediation or negotiation.

Our main focus will be on those businesses that are run by families who have faced or our facing disputes in their business. This will help us in investigating that ADR (mediation, arbitration and negotiation) is a faster way to reach to an agreement or in resolving the issues.

As discussed before that the main focus will be on mediation so this research will be helpful in identifying the conflicts. The causes of the disputes will be identified and after that possible ways will be determined that are used to resolve the disputes, mainly through mediation. The goal of this research is to solving a dispute through mediation is a successful way or not. Mediation is a process which involves less time and less money as compared to litigation. The case is listened and solved by the third party.

Apart from proving that mediation is a better way, another objective is to show that emotional damages to families and the businesses are caused by the courts. There is a time

when businesses have to deal with issues like succession disputes that has not been preplanned. They do not know what to do so they appeal to in the court. The court and litigation is a long and expensive process. It can take years to solve. This also causes financial and emotional damages to families and businesses.

This study believes that family business dispute succession can be solved by all three ways, litigation, mediation and negotiation. But the most effective and efficient way for these issues to resolve is mediation. The reason is it involves neutral third party who is not biased, this process is less expensive and less timely.

9.2 Summary of Findings

In this study the three important factors would have an impact on resolving family business succession disputes are litigation, mediation and negotiation. The findings of the study are in accordance with the previous literature. In this research qualitative analysis has been done with the help of prior research papers and conducting interviews with businessman.

According to the interview results, it is shown that mediation is a more preferred way to resolve issues and it has a greater impact on it. During the interviews only two ways of resolving issues were discussed, either it was via courts or through mediation.

Firstly, talking about negotiations, interviewees were not used to this technique. Negotiation is a form of a dialogue which is intended to solve the disputes with the intention of reaching the outcomes which helps in satisfying various interests (Caputo, 2013). However there is a very little difference between negotiation and mediation. Negotiation consumes more time and also can put mental stress on both the parties (Gashi, 2013). Although, if this technique is used it can be useful. As people are not aware of it, they do not use it. Negotiation is a mentally

straining process so it is not recommended in using for the solving of family disputes as it is already a sensitive topic. Secondly it leads to emotional damages to family so it should refrain from this type of technique that is already stressful.

Another significant variable discussed is mediation. Mediation plays an important and a major role is resolving all kinds of disputes, be it family disputes or any other. When the interviews were conducted most of the people were in favor of mediation and believed that it is an effective and an efficient way is resolving the disputes. Mediation is a resolution mechanism in which mutually acceptable third party participates in an disagreement to assist the concerned parties in mending their relations, improving communication as well as helping to jointly reach on an acceptable agreements on disputed issues (Chester, 1998).. Interviewees believed that when an issue is resolved by a mediator, it plays a positive role as he ensures that the relationship between the disputants is preserved and fully mended. This is a best way in resolving the disputes and most suitable for family business dispute succession. This process has more benefits as compared to its risks. Only thing to be followed in mediation is the rules of mediation. It should be conducted in accordance to the rules and no appeal should be against its rules (Ramsbotham et al., 2011).

Third factor was litigation that does it have an impact on resolving family dispute succession. According to the findings, it has an impact but it is not preferred way. As many people believe that the decisions made by court are biased, they might be in favor of another party. Then, it is an expensive and a long procedure. It is a more formal way of resolving the issues as there is a judge, jury, court and the setting done accordingly. According to a research once a senior lawyer was telling to their junior lawyers that it has a very long paper work which never ends, it takes approximately three years for a decision to be made through litigation

(Osunde, 2017). The positive point of courts is that it is done in a more formal way as compared to mediation but it is such a long process which might not be suitable for settling family disputes. For family disputes especially issues involving succession is better to be resolved to the earliest (Fattoum & Fayolle, 2009).

Thus, the findings of this research are in line with the findings of previous literature. There is undisputed agreement regarding the long term and serious implications of family business dispute successions on the overall wellbeing family businesses.

9.3 Sub Research Questions

The sub research questions were based on the main question that is mediation a faster route in reaching to an agreement when considering family business succession disputes? The research question was further divided into three research questions and the research was done accordingly.

The first question was regarding mediation that mediation is an effective technique in resolving the disputes. According to the interviews and their analysis it is proved that yes, mediation plays a significant role. It is efficient that it takes less time, it is cost effective and there is no biasness. The mediator involved in resolving the issue has better communication skills as compared to the judge in court. The mediator listens carefully, understands the situation and then comes to a final decision which satisfies both the parties.

Another sub question was to discuss another type of alternative dispute resolution i.e. negotiation. It was discussed in this research to find out that only mediation has more importance or negotiation also holds the same importance. When qualitative analysis was done to find this out, the results were that people were more familiar with mediation than negotiation. They had

more experience in resolving their issues through mediation or through courts. Hence, this can be concluded that negotiation is a way to resolve disputes but there is less awareness of this method and people prefer mediation because of its benefits and positive side.

The last sub question was in comparison with mediation and courts, that which one is the best way to resolve the issues. After conducting and analyzing interviews it was said that courts are biased and stricter when resolving the cases. Apart from biasness, it takes years to resolve the dispute which proves to be an expensive way. Most of the participants said, instead of litigation, mediation is better as it is done in private, they can talk openly and freely and in most of the cases they are satisfied because of its outcomes.

9.4 Relation of Findings to Literature

When researching on this most of the prior researches supported that mediation is an effective way is resolving disputes as compared to courts. Magiri (2019) conducted qualitative research and the outcome of the research was that mediation is a useful tool for conflict resolution. Another important finding of that research was that if the disputants are guided properly then the disputants are willing to compromise and finding solutions for their issues.

Mediation is a technique which involves a third party in to the agreement and that party acts as a mediator in resolving the dispute between the parties. It is one of the finest techniques of ADR used today for catering to different types of disputes such as succession (Radford, 2000). The literature also supports that one of the best technique to solve family succession disputes is mediation.

Even though a mediator is a neutral party but it plays different kinds of roles. It acts as a messenger to communicate messages; it provides knowledge according to the context of the

dispute which makes it seem like an educator. It is important for the mediator to have knowledge regarding the dispute. When this question was asked in the interview the participants mentioned that without having any knowledge, mediator would not be able to solve the issue. And instead of being successful it will be a big disaster. An utter state of confusion might be created which will mislead the argument due to the deficiency of knowledge of the case (Lieberman & Henry, 1986).

The role of a mediator is very significant as it provides assistance with different kinds of facilities. Moreover it interprets information and provides a reality check to the party; also it is the guardian of all the details shared. Every mediator plays different roles according to the context of the situation and demand of the party (Radford, 2000).

Another reason of mediation to be a successful technique is that it takes less time and is efficient. The participants do not have to wait for years to reach to an agreement. Mediation can be scheduled within few weeks and the dispute can be solved in one day (Haynes et al., 1997). This process saves time, money and emotional damages.

In the previous research a study was conducted in which two hundred families were studied who were facing succession disputes and it was found that making arrangements for progression and establishment of a successor were the most significant qualities related to family businesses (Trow, 1961). The impact of family connections can both encourage and block planning for progression and training of successor (Ward, 2016). To counter such problems ADR is suggested as a solution in the literature. It explains that with effective mediation it can help find a solution for justified allocation of wealth in a family.

Furthermore it is a procedure which helps maintain the privacy of sensitive information and help find creative solutions which are not possible in the hearing of a court. Privacy is one of

the important factors in mediation. Due to privacy, participants express themselves more openly in mediation than courts. In a study it is mentioned that privacy in these sessions allows disputants to encourage openness and self-expression as they know that their issues will not be made public (Chester, 1998). Everyone can easily share their opinions which are highly regarded in accordance to their emotions and sentiments. Due to privacy, it leads to better solutions as clarity is expressed through free expressions. Most of the literature concludes mediation as the most effective solution to resolve succession disputes.

If the family business issues are not resolved by mediation, another option is appealing to courts but this is the most discouraged method. It has more disadvantages as compared to advantages. It is a long procedure, expensive, involves biasness and no privacy. These are some factors that a party considers when they want to resolve an issue. According to the prior studies it is said that court involves a long paper work which seems like never ending. Approximately it takes around three years to reach to a decision (Osunde, 2017). In comparison with mediation it takes only few weeks or maximum one month (Haynes et al., 1997).

For a dispute to be settled through litigation is very expensive for both the parties. Courts are always there to make the decision but the problem is the high bills of lawyers which become unaffordable at a certain point, a normal trial takes months to reach to its decision and during this time period fees of the witnesses, expert fees etc. become really hard to pay (Friedman & Lord, 2004).

Succession planning dispute should be resolved by that technique that is efficient and effective. The reason is that businesses have to perform many other functions to make their business successful and prosperous. It is not possible for a business to get stuck in a case that takes a lot of time and money. The business will be effecting from both sides; first the owners

will be busy in resolving the dispute and their focus will not be on business. Second is that the business would be bearing a lot of cost for that disputes. The business will be affected badly as the large amount of money would not be coming in the business but the large amount of money would be going out of the business.

It is suggested that succession planning should be clear and should develop practical visualization of the business after progression (Lansberg & Astrachan, 1994). It includes the criteria for choosing the successor. The design should be appropriate so that the business and family both can be managed.

Due to the reasons mentioned it is very important for family businesses to choose a better way but very carefully to resolve the family disputes. As discussed, negotiation is one way but it might have problems in resolving the issue as it is also a time consuming and a stressful process. Another technique, which can be used for resolving the issues, is mediation. It is a new technique which is less costly and less time consuming. Lastly the other technique is litigation; it is the most common and trustable but costly (Friedman & Lord, 2004).

However after conducting this research it is proven that people are moving towards the new technique, mediation, which is more beneficial for them as it involves a third party who listen to the discussion of both parties and help them to come to conclusion. It accepts a broader range of solutions, unlike litigation which means different and creative solutions can be considered.

9.5 Problems in the Study

All the research done in this study was tried to be made as conclusive and comprehensive it can be but there were some limitations to it. During the brain storming sessions of this study,

the aspect of corona virus was not considered as it was unexpected and uncontrollable. Whole world was facing this issue and there was no effective solution for the limitations due to this pandemic. In order to execute this study many changes were made in the plan of action so it can be made as informative as it was going to be before this pandemic.

Digital platforms were used to collect the data required for this study and many difficulties were faced while conducting this procedure. Many factors which cannot be controlled came into play such as interviews were conducted online because of this virus and according to government social distancing became a necessity. An environment or a setup for interview was not able to be developed which lead to a certain level of ineffectiveness in the interview conducted. Face to face interaction has a greater impact than an interview online; much better results would have been produced if pandemic had not struck the world with such intensity.

Interviews were conducted on zoom app and in this process, sometimes there was a problem in connectivity due to which communication between the interviewee and participant was affected. Furthermore, sometimes interviewee was not able to understand what participant has to say or even convey his own message because of constant lagging. Zoom was introduced recently and many people were unaware of the usage of the app so the participants faced issues while joining the meeting.

Research based on a qualitative data requires deep insights about the study which can only be retrieved through interaction with relevant people so we can get their opinion on the study but due to corona virus there were minimal interactions. Also accessibility to reach people for their interview was limited so we were able to get interviews from only three people. These further confines the amount of data required for extensive research.

Family disputes is a topic which is considered private and families are not comfortable in revealing their personal information for a study as they consider it unsafe or invasion to their privacy, so it was very difficult to find people who had no issues talking about their family disputes and convincing them to trust the researchers with the information was also a tough job. Questions were also molded in such a way that it doesn't hurt any of the participant's feelings. Playing with words and developing such questions was a difficult task.

If the conditions would have been normal certain experiments like visiting courts, hearing a case and then analyzing it would also have been performed so live information could be collected in order to compare it with mediation. These activities were also planned but pandemic limited the researcher in numerous ways and alternative to every problem was not available.

In our research there were numerous unforeseen problems. As the world is facing an issue which has no solution at this point of time and there is an economic depression in the whole world, our participants were in stress because of the situation. Many businesses were facing huge amount of losses. This instilled a fear in the heart of the participants which reduced their abilities or mental capacity to answer our questions in detail.

9.6 Future Research

Mediation is a process which is extensive in nature. In future more studies should be done on different types of mediation and how people are using them accordingly to resolve their disputes. Many people have been introduced to the term mediation but its implications are not explained in detail so more focus should be made upon the use of mediation. There are different ADR processes which are used to resolve a conflict or dispute, a detailed comparison should be

developed amongst all the types so it can be clearly identified which method is useful at what point of time.

Furthermore many people consider courts as reliable because courts enforce their decision and there is a legal agreement to which disputants are bind to follow or else a legal action would be taken against them, future studies should focus on how mediation is beneficial way to counter disputes so people can get aware of both the methods and decide accordingly. Due to the pandemic this study was not able to experience any court hearing or a mediation process in which they could be able to draw a comparison. More live experiences will strengthen the validity of information and more deep information can be gathered about this study.

In this situation accessibility of different people who are facing family disputes was a challenge so for future more cases can be studied in which different experiences will be recorded. This will help to draw a conclusion that which ADR process is most efficient in resolving conflicts like family disputes. Also, there are many cases where people try to resolve their family disputes in personal as these types of cases are private. Extensive study should be made that how mediation caters the privacy of different families. They should also focus on the results of the cases resolved through mediation and courts so effectiveness of both the methods can be analyzed. Further studies should be made on the ease of accessibility which will explain that which method is more easy to use and available.

Moreover mediation is considered as a process which takes less time and cost in resolving a dispute, so further studies should be made about the efficiency of the decision made through mediation. People may tend to resolve issues through mediation in less time and cost but its validity and reliability in long term should be studied to get a deeper understanding of how mediation is much more beneficial ADR process than courts. Due to the limitations which rose

from this pandemic, the research done on mediation in accordance with solving family disputes might require further research on certain aspects of mediation. More interviews along with one to one interaction with different families are required to get insights of how they coped up with their disputes and how mediation helped them solve their dispute. More conclusive study can be made by covering these aspects of mediation.

9.7 Implication and Application of Results

Results derived from this research holds great importance for people who are stuck in a family dispute. There are numerous numbers of cases which are still not resolved and they are incurring a large amount of time and money of the families involved. Consequently findings of this research will help them compare between different ADR processes which will further make it easier for them to select a method that is best suitable for their job. Also they will be able to relate with the cases explained in the study and can move accordingly. Mediation as a process is explained in detail which will provide disputants a better understanding of the concept of mediation and how it is executed.

The findings analyzed from this research can be implied in many cases of family disputes. Mediation is a useful tool to resolve conflicts and many disputants can get through their cases by implying mediation for their disputes. This study will act a way of enhancing knowledge of the disputants because it includes shared experiences of people who have used mediation for their specific. Also they will be able to judge the appropriateness of mediation for their case which will highly benefit them in long-term.

Mediation identifies the problem and provides a solution according to the situation of the case. A decision which is justified and acceptable to both parties is made in mediation. In

disputes where families are involved it is considered highly important to also maintain the relationship with good terms. This paper explains that how mediation is the process which will help families to reach a decision which satisfies both parties and a healthy relationship will be maintained. Such types of findings are highly beneficial for disputants as they will get aware of the process and understand all the negative and positive aspects of mediation.

Findings of the research include the explanation of the way mediation helps develop a sense of compromise amongst the disputants. This understanding results in decision to be made in a much quicker manner even though all demands are not met but people will be satisfied as major demands of the disputants are covered. This research sets up a new perspective for disputants by explaining them that how they can have their conflicts resolve just by cooperating with the other party. . Moreover this will also help in changing the perception of those disputants who think compromise as their defeat but according to the results analyzed the one who compromises is largely benefitted in long term.

Sensitive issues such as a divorce in a marriage where both parties are volatile, when such cases are presented in courts both parties are adversely affected and also it have a negative impact on the children when they view their parents fighting for the custody. Research conducted addresses that such type of cases can easily be solved through mediation. People can easily divide properties and decide for the custody of their children. This paper can act as a future reference for the couples who are unable to resolve the conflict of their dispute. Through mediation the couple might also end up by not getting divorce and both of the parties' compromise according to the situation.

This study also has a negative side to it; it has explained the process of courts in detail along with their never lasting bills and time constraints. People may get negatively influence and

do not consult courts for their matter. There are still some types of cases which cannot be solving through mediation; they require the court to intervene so that conflict can be resolved.

9.8 Conclusion

This research is a detailed study which explains all the ADR processes used for solving family disputes. A detailed analysis is made which compares the disputes resolved in courts with different ADR processes. Large number of people has started considering courts a place where justice is not up to the expectations and it takes a lot of time and money to solve a dispute in the court. ADR processes especially mediation has become of large importance to people. They consider mediation as a justified and reliable procedure to counter any dispute. Unlike traditional methods, mediation is a way which provides people justice acceptable to both parties and in very less time and money which is used in solving any dispute through courts. Courts are strict and sometimes due to lack of evidence they might end up giving a decision which is unjust to the party but mediation is a procedure which tends to satisfy both of the parties and conflicts are resolved through compromise. Constant negotiation and agreements take place through a mediator between the two parties so the mediator can derive a mid-pathway which is beneficial for both the disputants.

. Family disputes arise because many people tend not to plan for their succession in early times which result in great conflicts afterwards also families do not provide training to the successor. These businesses do not survive more than a year because of their inefficiencies in the business. Families who have proper plan for the execution of their succession they never face any disputes and tend to have successful businesses. . Mediation is an effective method to solve family disputes. Privacy concern is very important in such matters so mediation is a process

which maintains privacy and all the information which is sensitive or private to the families is safe in this process. Integrity of the case is maintained in order to satisfy disputants.

Research from the literature concludes that mediation is the most effective way for solving disputes. Majority of the interview conducted supported this statement. Most of the disputants were satisfied from the experience of mediation and some of them even recommended it to the others. Some disputes are not resolved because of the lack of trust and communication between the two parties. Both of them try to deceive each other by lying so they can turn the decision in their benefits.

To counter this issue a written agreement is signed from both the parties in order to maintain the integrity of the decision made by mediation. This is a confirmation or evidence, which do not let any party to deceive each other. Various voluntary and customary approaches are present in ADR (Alternative dispute resolution), they are used in finding a flexible and easy-going solution for the disputes. There are many types of ADR which include negotiation which can include two or more parties, mediation which plays a great role in solving disputes and arbitration. Disputes which can be solved using mediation are succession conflicts fight over power management, differences in defining future objectives of the company, investment or reinvestment issues, complications arose by the divorce of one of the partners and many more.

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Appendix

Appendix A- Interview Guide

Demographic:

- Name:
- Age
- Type of business

Questions:

1. How is mediation setting different from the court room?
2. Does the setting of mediation impact on the way disputants express themselves?
3. How does the mediator facilitate communication between disputants during mediation?
4. Does the language used in mediation have any impact on how the disputants express themselves?
5. Mediation is conducted in private, does this influence the way the disputants articulate the issues?
6. What are the expectations of the disputants in mediation?
7. Are the disputants likely to change these expectations by the end of the mediation?
8. What are some of the possible outcomes of mediation?
9. Are disputants always satisfied with the outcomes at the end of mediation?
10. What are the communication competences/skills that should a mediator have?
11. How do these skills assist in the process of mediation?
12. In your opinion, should mediators have some knowledge in the area of the case they are mediating?

Appendix B - Informed Consent Form for Survey & Interview

Dear participant,

You are being invited to participate in a research study that is titled “Family business succession disputes: A case study of how to reach a faster agreement through ADR”. This study is being conducted by Mariana Tannous de Souza for a final dissertation in MA in Dispute Resolution, Independent Colleges of Dublin.

The main goal of this research is to collect data to prove that apart from the court there is an easier method to solve conflicts which is known as ADR. In this research our main focus would be on one the form of ADR i.e. mediation. Please rest assured that all your information will remain confidential, and none of your responses will be shared with any other individual.

The results of the survey will only be used for the above-mentioned titled research project for the Dublin Business School. Any information that you share today will only be used for the purpose of this study. Please acknowledge that by participating in this study you are not being exposed to any additional risk, other than the risk experienced in daily life.

If you have read and agree with the above statements please sign and return this consent form to the Independent Colleges of Dublin student below.

Participants Name: _____

Signature: _____

Date: _____

Please keep a copy of this consent form with you, if you have any questions please contact me on the email address listed below.

Student’s Name: _____

Student’s Email Address: _____

Appendix C- Interview 1

In this interview we will be talking with the owner of Panela de Gelo (Café). We will not be revealing his/her name due to their privacy concerns.

Interviewer: Hello, my name is Mariana and I will be conducting this interview for my research project. So first of all thank you very much for taking out your precious time. I would like you to tell me about your business.

Interviewee: The business was established in 1986. Umm...I believe....It has been more than thirty years. The concept was to have a place where traditional families can have lunch and chit chat with each other. Basically it was all about making a comfortable place for people where they can spend their quality time and relax. Our restaurant was the first step towards the birth of frozen food trade. It was a daring idea at that time and was influenced by Syrian- Lebanese family.

Interviewer: If you have faced any family disputes, so to resolve them you went to courts or use mediation method.

Interviewee: At first we used to go to courts to resolve legal matters but as we got to know about mediation method, we moved towards it as it was much easier way.

Interviewer: So what do you think, how is mediation setting different from the court room?

Interviewee: Aaaa... In mediation both parties are given a chance to present themselves and explain their points. Mediators do not force us to reach on an agreement but firstly they explain all the financial and other costs involve in the legal process. They try to provide a better solution. However in courts it is total opposite, as decision are enforced in courts.

Interviewer: What do you think does the setting of mediation have an impact on the way disputants express themselves?

Interviewee: Yes I believe that the setting, atmosphere matters a lot when resolving the disputes via mediation.

Interviewer: My next question is that how does the mediator facilitate communication between disputants during mediation?

Interviewee: You know, I have not been into such matters, but once when I tried to resolve my dispute through mediation, I remember that our mediator tried to facilitate the negotiation between us and another party. It was a good tactic. I was much comfortable in using this method because rather than imposing a decision on us, they allowed us to understand each other's point and find a best possible solution.

Interviewer: Does the language used in mediation have any impact on how the disputants express themselves?

Interviewee: Yes I believe that language have plays central role in the integrity of mediation process and the quality of outcomes. Because communication plays a major role in this process. Because if the parties do not understand each other's language, there will be miscommunications between parties. Let me give an example of my case, that in my case, I remember other party spoke in my native language which helped me greatly so we could reach to a solution effectively. Communication is significant in mediation as it should be clearer.

Interviewer: My next question is related to the method of conduction of mediation. Mediation is conducted in private, does this influence the way the disputants articulate the issues?

Interviewee: Yeah, I agree with your statement. According to me, yes mediation conducted in private has a great impact for as it is much more comfortable for parties to express themselves openly, refraining them from providing any false information.

Interviewer: So what you think are the expectations of the disputants in mediation?

Interviewee: I clearly remember when I took my case, to a mediator, instead of going to court; I expected to reach cost efficient solution which will be beneficial for me in long term. I also believed that it would take less time and the dispute will be solved as soon as possible. I expected that the whole scenario will be all different from the courts and it would not take that much time like courts takes.

Interviewer: Based on your previous answer, do you think disputants are likely to change these expectations by the end of the mediation?

Interviewee: I can't comment on behalf of others that were they able to meet the expectations in the end or not. But yeah, my experience completely disagrees with this statement because in my case it was totally opposite. My expectations were fulfilled. If a situation arises in future, so I would prefer to resolve the dispute through mediation and not through courts.

Interviewer: What are some of the possible outcomes of mediation?

Interviewee: Umm... The outcomes of mediation that I encountered were to settle all my issues with the other party and sign an agreement. However judges and courts won't modify these agreements unless it falls into very narrow exceptions such as a typing error or mistake.

Interviewer: Were you satisfied with the outcomes at the end of mediation?

Interviewee: Yes, I was satisfied with the outcomes that I achieved at the end of mediation. Even I was happier that I chose mediation to solve my issue.

Interviewer: Another question I would like to ask is what is the communication competences/skills that should a mediator have?

Interviewee: The qualities a mediator should have..... Umm...According to me the skills a good mediator should require are that he should be an active listener. He should make clarification through constant questioning. He should have empathy for both the parties so that he can understand the point of view of both the parties. He should also be able to convey his points clearly to the parties.

Interviewer: How do these skills assist in the process of mediation?

Interviewee: The answer is same as the previous question, as I have told that these skills will help the mediator to listen to both parties and to reach to a best possible solution. Eventually this will lead to the satisfaction of the client.

Interviewer: In the end, I would like to know your opinion that should mediators have some knowledge in the area of the case they are mediating?

Interviewee: Yes, It is important for the mediators to have a knowledge regarding the case beforehand as they won't be able to solve the case and might reach to a decision that is biased.

Interviewer: In the end I would like to thank you for your time and assistance, in providing me all your insights about mediation.

Interviewee: You're welcome.

THE END

Appendix D- Interview 2

In this interview we will be talking with the owner of Supermercado Paulista (Supermarket). We will not be revealing his/her name due to their privacy concerns.

Interviewer: Hello, my name is Mariana and I will be conducting this interview for my research project. So first of all thank you very much for taking out your precious time. I would like you to tell me about your business.

Interviewee: The Company was established in 1979. Now it has seven stores in different cities of Brazil, two in Igarapava, one in Miguelópolis, one in São Joaquim da Barra, one in Guará and two in Ituverava; which makes us one of the largest and traditional networks in the region. It is part of grocery stores and supermarket industry. Most important point of our business I would like to tell is that there are 2 companies in the Supermercado Paulista corporate family.

Interviewer: If you have faced any family disputes, so to resolve them you went to courts or use mediation method.

Interviewee: Following our family tradition, we always used to go to courts for resolving our disputes but cases which were not being able to solved through court, we used mediation as an alternative dispute resolution. But our first preference is always resolving our disputes through courts.

Interviewer: So what do you think, how is mediation setting different from the court room?

Interviewee: In my experience hmmm..... Mediation has much more informal setting as compared to court. I was able to explain my point in a much more detailer manner during the process of mediation, in courts it is much more formal and a code of conduct is followed. Court decisions are solely based on facts but in mediation opinions are given huge importance while making a decision so in my opinion mediations has some risks attached with it because in my experience of mediation other party whole case was based on opinions and was able to stand against my facts.

Interviewer: Does the setting of mediation impact on the way disputants express themselves?

Interviewee: Yes it has a huge impact, as I explained earlier courts are strict on their rules and they have strict laws against the violation of rules but in mediation people have more freedom of speech. When I go in courts I speak very cautiously by reviewing every word I say because any sentence can be turned against you by the lawyers but in mediation it is much easier to decide what to speak as there is no punishment followed by the violation of rules.

Interviewer: How does the mediator facilitate communication between disputants during mediation?

Interviewee: The mediator is a third party so it should try to bring both parties on same page so they can resolve their issue with mutual understanding but in my experience of mediation our mediator was not able to assist parties in negotiating with each other. Weak communication skills between the two parties increase the problem or dispute.

Interviewer: Does the language used in mediation have any impact on how the disputants express themselves?

Interviewee: According to what I have seen translators are very expensive and you also might not get exact point of the other party which may result in tables turning against you. Same language removes all the communication gaps. In my case I have not faced such an issue as my conflict occurred in my own community and we have the same language. Every language carries its own expressions and translators might not only able to translate those emotions so to understand other parties effective communication is very important.

Interviewer: Mediation is conducted in private, does this influence the way the disputants articulate the issues?

Interviewee: One of the major advantages of mediation, which I feel is the freedom with which we can express ourselves. So for mediation conducted in private is very important in order to maintain the usefulness of mediation or else courts are much more effective way of getting justice. Mediations in private are useful then in public. This is the reason I rely more on courts, even you get privacy in mediation but true justice is not possible every time as opinions are highly valued in mediation and are given equal importance as facts.

Interviewer: So what are the expectations of the disputants in mediation?

Interviewee: Umm.... As the time passes, people have high expectations from mediation as they consider it as a cost effective way to get a solution to their problem efficiently. However, in my point of view mediation might be much less costly and time consuming, but the decisions made by the courts are much more reliable and can be enforced by law. Mediation agreements are

signed by the two parties but with the help of the court the validity of the agreement or the decision cannot be challenged.

Interviewer: Are the disputants likely to change these expectations by the end of the mediation?

Interviewee: Yeah. There is a great difference between the expectations and actual results at the end of the mediation. When I was told about mediation, I was expecting to have justice in less time and money but what happened was totally opposite. I was not able to get the expected justice through mediation so I had to avail the option of court so I can get justice which resulted in doubling the time and cost. If I had gone to the court directly, I wouldn't experience all this.

Interviewer: What are some of the possible outcomes of mediation?

Interviewee: Before experiencing what I mentioned in the previous question, I was expecting that mediators are not limited to the same solution as judges are limited to ruling in the court trial. I believed that mediators are flexible enough and can come up with more creative settlement outcomes that are not available to the judges of courts. However it ended completely opposite of my expectations.

Interviewer: Were you satisfied with the outcomes at the end of mediation?

Interviewee: No, I wasn't. My level of satisfaction was not optimum as I experienced totally different results from my expectations. The decision was beneficial for both parties but for me it was not complete justice as it took away many of my rights which I think would have been part of my justice.

Interviewer: Another question I would like to ask is what is the communication competences/skills that should a mediator have?

Interviewee: Umm... firstly a mediator should be wise enough to give creative solutions to both the parties. Secondly, they should be able to manage the stress in the room as it can result in many heated arguments during the presentation of the case. Basically he should be calm. Also mediator should be emotionally intelligent so that he/she can equally respect the emotions of both the parties and refrain from hurting anyone's feelings.

Interviewer: How do these skills assist in the process of mediation?

Interviewee: A mediator with such skills can help in effective decision making. This will also satisfy the clients involved in the case and they will choose mediation as a solution to their problems after courts.

Interviewer: In the end, I would like to know your opinion that should mediators have some knowledge in the area of the case they are mediating?

Interviewee: Without knowledge of the case mediator cannot listen to the case. It will result into a confused argument and will never reach to a conclusion if mediator does not have sufficient knowledge about the case.

Interviewer: In the end I would like to thank you for all your time and assistance, in providing me all your insights about mediation.

Interviewee: You're welcome.

THE END

Appendix E- Interview 3

In this interview we will be talking with the owner of Posto Chão Preto (Petrolpump). We will not be revealing his/her name due to their privacy concerns.

Interviewer: Hello, my name is Mariana and I will be conducting this interview for my research project. So first of all thank you very much for taking out your precious time. I would like you to tell me about your business.

Interviewee: Our business emerged in order to meet the needs and expectations of the customers. We are a reference company in gas station and services. We offer unbeatable prices and provide our customers with various forms of payments.

Interviewer: If you have faced any family disputes, so to resolve them you went to courts or use mediation method.

Interviewee: Whenever I faced a dispute in personal, I always used mediation as it is being my first preference. Umm... if the matter involves more legalities and complicated documentation, then I prefer to go to courts for resolving those issues.

Interviewer: So what do you think, how is mediation setting different from the court room?

Interviewee: Whenever I availed mediation for solving the family business issues, I had a great experience. It is completely different from the court rooms. As during the process of mediation you can express yourself, make your point and umm... confidentially present yourself position in front of a neutral third party. This type of setting makes you much more comfortable when compared with court rooms as strict rules are to be followed over there.

Interviewer: Does the setting of mediation impact on the way disputants express themselves?

Interviewee: In case of mediation, the setting plays an important role. In mediation both parties are brought together in an environment where they can freely present themselves in front of the mediator. It is a big positive point as I have heard that mediation has a high success rate. Because of this atmosphere, clients feel better as they get an opportunity to get things done and also benefits from hearing their opposite parties.

Interviewer: How does the mediator facilitate communication between disputants during mediation?

Interviewee: I believe that mediation is less hostile and less confrontational when resolving the disputes as compared to the inefficient and expensive judicial system. This is the way that mediator facilitate the communication between disputants by understanding each parties point of view, making them comfortable so they can open up freely and can clear all the queries or questions they have in their mind.

Interviewer: Does the language used in mediation have any impact on how the disputants express themselves?

Interviewee: I believe same language of both the parties is very important so they can communicate and understand each other easily. Linguistic barriers may result in misconception between the parties and this will increase the chance off miscommunications which will further result in biased or wrong decisions.

Interviewer: Mediation is conducted in private, does this influence the way the disputants articulate the issues?

Interviewee: The privacy that is maintained in the mediation is very important because due to this disputants express themselves much openly as compared to the courts. Everyone can easily share their opinions which are highly regarded in accordance to their emotions and sentiments. I myself was really influenced by inflation by the fact that I can express myself easily and freely. It facilitates in conversation which helps in reaching a solution.

Interviewer: So what are the expectations of the disputants in mediation?

Interviewee: Umm... The thing is that when I took my cases, to a mediator. I expected to reach cost efficient solution which will be valuable for me in future. I also believed that it would take less time and the dispute will be solved as soon as possible. I expected that the whole scenario will be all different from the courts and it would not take that much time like courts takes. Most importantly I expected that it will reduce court trials and will be a more cost effective and efficient option compared to litigation.

Interviewer: Are the disputants likely to change these expectations by the end of the mediation?

Interviewee: When I went through the process of mediation all my expectations which included justice in less time and money were fulfilled. Expectations from mediation might not change but expected results can vary. In my case I expected that decision will be made only in favor of me but in the end of the procedure of mediation both parties were able to reach a solution through mutual agreement which benefitted me and the other party.

Interviewer: What are some of the possible outcomes of mediation?

Interviewee: some possible outcomes which I was explained before the procedure were firstly a mutual agreement will be signed by both the parties but if there is a disagreement at any point

then parties sign a binding settlement agreement regarding only those issues that have been settled. Also if no solution is reached from the procedure than a break is take to gather more information.

Interviewer: Were you satisfied with the outcomes at the end of mediation?

Interviewee: Yes I was satisfied with all the outcomes because I was able to achieve my desired outcome which was to sign a mutual agreement with the other party and drive a solution, beneficial for both of us.

Interviewer: Another question I would like to ask is what is the communication competences/skills that should a mediator have?

Interviewee: A mediator should understand the emotions and feelings of both the parties related to the dispute. Another quality a mediator should have is to know how to negotiate with the parties and act as an intelligent moderator. More importantly the significant communication skill a mediator should have to be a good listener and should have patience to listen to each participant and comprehend the solution.

Interviewer: How do these skills assist in the process of mediation?

Interviewee: These skills play a major role in making the mediation process successful. If the mediator does not have these skills then the final solution cannot be reached and it will lead to further disputes between the parties. A skillful mediator will also satisfy the clients involved in the case and they will choose mediation as a solution to their problems after courts.

Interviewer: In the end, I would like to know your opinion that should mediators have some knowledge in the area of the case they are mediating?

Interviewee: Without knowledge of the case mediator cannot listen to the case. It will result into a confused argument and will never reach to a conclusion if mediator does not have sufficient knowledge about the case.

Interviewer: In the end I would like to thank you for all you time and assistance, in providing me all your insights about mediation.

Interviewee: You're welcome.

THE END