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Comparison Of Alternative Dispute Resolution (Adr) In The Uk In Contrast With Australia And Its Advantages For Iraq, Kurdistan

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Abstract
This dissertation aims to investigate and compare of ADR methods in the UK and in Australia by comparing some of the ADR methods as Arbitration, Mediation, Negotiation and Conciliation. Since, there are major differences and similarities between both of the systems in either country in terms of the time, cost, Compulsion and Voluntarism degree. AS, ADR is voluntary in the UK and compulsory in Australia there might be some advantages and drawbacks of utilizing ADR. As there is a great amount of communication locally and universally among the countries, some new kinds of problems could be made. In the manner even if the court could not be able to recover all the domestic disputes, the international disputes might arise. Therefore, government like Iraq and Kurdistan might look for the other alternatives for resolution the problems. However, this might need a good evaluation and grounds in terms of applying ADR systems. It is true that there are some other alternatives in Iraq and Kurdistan as such Sulh, Sharia and Musalaha. Nevertheless, the decision maker's award is most belonging to the religions, culture and custom rather than the law and this might not be decent most of the times for the parties.

Therefore, as ADR forms are working well in the UK and Australia. Therefore, it would be good for countries as such Iraq to use these systems for resolving their domestic and international problems. Though, mixed system of law which include Sharia and law in Iraq and Kurdistan have been enlightened. For that, some important ideas have been summarized to explain the most suitable system for applying ADR in Iraq and Kurdistan, as they do not have these methods. Likewise, some proper recommendations such as, reading ADR methods in Iraq and Kurdistan Law Schools, providing a proper ground for practicing ADR, and supporting the use of ADR by the governments has been made for the Iraq and Kurdistan governments in order to use ADR systems.

Keywords: ADR, Disputes, Arbitration, negotiation, mediation, conciliation.

1. INTRODUCTION

After conducting business widely on the international stage, the field of ADR has become so markedly in the spotlight. Since, the overload of the court has increased and people did not want to go to the court to resolve their problems, as they have some reason for this, for example, they think that it is costly and it wastes their time. Consequently, for solving this problem ADR will be the best solution. Some methods of ADR have been used in some countries, by different names. For instance, in India 500 B.C. they used arbitration, which they called 'Panchayat' (Jerome, Barrett & Joseph, 2009). The definition of ADR is quite complicated, as there is not an agreed, universal, definition of it. Also, it has been argued in some research publications that arbitration and mediation are not a form of ADR (Blake, Browne & Sime, 2011). Conversely, a definition exists that says; the resolution process where the parties do not go to the court for solving disputes is called ADR. Supplementary, ADR is also known as an Amicable Dispute Resolution or Appropriate Dispute Resolution (Nolan-Haley &Jacqueline, 2013). ADR's most common methods is a Negotiation, Conciliation, Mediation and Arbitration (Chapman, Gibson &Hardy, 2003). In many legal and quasi-legal contexts for bringing the parties to a result, ADR has been successfully used. Besides, the intervention of a court by the parties which might be a longer and more expensive process is not needed. Additionally, ADR could not just refer to an exact procedure, but rather to a shared set of systems, values or goals assumptions. ADR's some forms may also aim for enhancing relationships between the parties and promote understanding. Consequently, the main goals of this dissertation will be comparing the two systems of ADR in the two development countries as such Australia, which the system of ADR is Compulsory and the UK which is voluntary and trying to select the superlative system for Iraq and Kurdistan. This dissertation has been divided into six main parts which it starts by looking at the ADR overviews, most familiar types, advantages and disadvantages, comparison of ADR in Australia and in Great Britain and it will finish off by choosing the most appropriate methods for Iraq and Kurdistan.

Research questions

1. Which system (compulsory, voluntary or both) of ADR would be the top for applying in developing countries as such Iraq?
2. How/Why, it or they will be virtuous.

A brief history of ADR

Initially, ‘humanitarian’ is being sociable fundamentally, and they have been forced to live together, as it helps them to achieve whatever they want, but it made some disputes between them at the same time. As alongside the history, disputes have existed in human societies. Thus, they made many methods to solve their disagreement. Because increasing in population, and the creation of the domestic and international companies. The old ways in some places have changed the traditional mode to make this relationship easier (Hovida, 2002). 1800 BC has been announced as the early timeline of the use of ADR in contemporary Syria when the Mari Kingdom used arbitration and mediation in disputes with the other kingdoms (Boulle, 2005). Likewise, as it has been clear that the most effective approach for using it was religion and culture. For example, there was a famous case in 960 B.C. in which Solomon king of Israel who was Jewish has played a huge role, as for resolving the disputes between two women who had the disputes on one child as each of them said the child is mine. Solomon decided to cut the child by his sword, one of the woman's said I agreed and the other said that he should award the baby to her accuser so that the child’s life would be spared. Solomon awarded the child to the woman who was willing to give it away. This

informal way of resolving the disputes has changed a bit into formal way. For instance, in America the new form and right has been mentioned in 1970 (Barret T. & Barret P., 2004). Also, nearly some methods of ADR become more popular everywhere. Such as, in Asia as an effective mechanism for resolving the commercial disputes, international commercial arbitration has been accepted by the nearly all the international business community. The unwillingness of the parties might be the first reasons for this performance, which parties do not want to solve their disputes via court (Sharma, 1996). Equally, some of the methods of ADR have been counted as an aim to enhance relationship and promote understanding between the parties to contribute to their recognition and empowerment. Furthermore, ADR's values and missions might give different emphases for broadening the social goals, for instance, human rights, community development, security and justice (Ag, 2001).

Appropriateness of ADR

While ADR is not a panacea for all types of disputes and it has its limitation. Then, ADR is an additional layer of costs in legal process nothing more by the mediation's opponents; also, it has a crucial role in making greater available admission to justice (Lawreform, 2010). Moreover, choosing a specific method of ADR can be helpful for resolving some problems. While, sometimes some of the cases are inherently unsuitable for ADR (Blake, Browne &Sime, 2011). Likewise, to submit a very wide range of disputes to ADR, the parties will be encouraged by the judges. While it has been suggested that by the Honorable Chief Justice Bathurst, the courts are also looking at the ADRs appropriateness. This would be gauged for both the level of public interest and nature of the dispute, which they might have a potential in reducing barriers to justice. According to 'Supreme Court of Victoria Practice ' unless the presiding judge determines that there is a reason to refer the cases to mediation, the Supreme Court and Country Courts have mentioned that all commercial cases must be referred to mediation. Additionally, under section 26 of the Civil Procedure Act 2005 New South Wales with or without the parties consent, the court is permitted to refer parties in any civil dispute to mediation procedures (Freehills, Leydecker, Oddy &Phillips, 2012). Likewise, the quality and speed of the social justice will be enhanced by using those methods. For example, in Northern California about 11 percent, and around 2 percent in eastern New York and in Europe, 0.5 percent of the civil cases and in Germany about 10 percent of divorce cases settled by mediation. The burden on the legal justice system has been multiplied because of the complexity of the modern life. In addition, sometimes it might have negative impacts. For instance, €600m has been paid to litigants by Italian government as a result of delays by the trail (McManus & Silverstein, 2011).

Development and support for using ADR

There were many changes for utilizing ADR as such, in the UK Civil Procedure Rules 1998, section 1.1 the encouragement of the use of ADR has been built, also dealing proportionately with the case and saving expense are the most overriding objectives from the mentioned Rules. Similarly, in 2006, it has changed in its protocols that, the parties should consider some form of ADR would be more appropriate than litigation. Besides, ADR was standardized in 2007, in the country, courts, and in each area, a full-time mediation officer has established (Blake, Browne &Sime, 2011). Plus, as cited in the case (Dunnett & Railtrack, 2002) a party who failed to take part in an ADR process must be imposed a cost penalty by the courts as the court has shown before. However, the defendant's case won they were denied their costs since the defendant had refused to consider what the courts had stated. Moreover, if the parties unreasonably refused to use ADR, they must be imposed a cost penalty by the court (Halsey & Keynes, 2004). However; the parties could not be forced to use the ADR. Furthermore, the strong infrastructure that supports ADR in Australia has

produced by the developments over the last three decades. The use of ADR has pervasive within the family law system by the legal professions generally support such developments and ADR is now integrated into the law school curriculum. Further, in 1995 the National Alternative Dispute Resolution Advisory Council (NADRAC) established by the governments and it also been a significant support (Buck, 2005). Supplementary, according to the Bergman and Bickerman (Mack, 2003) for most of the participants ADR is a fair and satisfying process. Besides, in Iraqi Kurdistan region in 2015 under the auspices of the Kurdistan Region Minister of Higher Education it has been mentioned by Prof. Dr. Mosleh Mohamed, that the second academic symposium should be focused on ADR in Duhok University (Virtualmediationlab, 2015).

Aims

1. What the research is really want to achieve that, how to extent the area of ADR and how and when is the best time for applying the ADR.
2. Realizing the advantages and disadvantages of both Mandatory and voluntary are the other aims, which I am trying to achieve.
3. To know which system of ADR is the best. In the other words, which system of ADR (Mandatory or Voluntary) is better?
4. What are the most beneficial advantages, which might cause from the ADR for the developing countries such as, Iraq?

Objectives

1. The research has been focused on the actions and necessities of both systems of ADR in the UK and in Australia.
2. The authors used journal articles, textbooks, and other sources to explain the nature of both systems of ADR in either country.

2. METHODOLOGY

There are three core purposes in this subchapter: firstly, to describe the research methodology and to answer why using this type of methodology; secondly, to explain the dissertation problems and limitations; thirdly, to statement the dissertation problems and limitations.

Research method

For comparing the ADR schemes in the UK and in Australia, which is the dissertations main aim, a comparative approach has been used. The comparative approach has been very popular, particularly for students who demand to access statutes, cases and academic articles, that relating to the legal systems. The comparative methods help and assist scholars to acquire a skill of many different jurisdictions. It also could be helpful to center on pre-existing knowledge and to ask such the questions how law systems in one place is different to the other one, which law method is worth to apply and even how they are different from each other. Moreover, for highlighting the differences between law in the books and law in practice a comparative analysis may also been utilized.

One of the other advantages of Comparative methodology is that, it allows researchers (students) to cite decisions from variety types of the court. For example, local, international and foreign for evaluating the law of other jurisdictions. Therefore, via this system it will be easy to explain similarities and differences and even chose the best legal systems between the provisions and concepts of the law (Salter & Mason, 2007).

Consequently, because of the topic this approach has been used by the author for comparing the compulsory and mandatory system of ADR in the UK and Australia, as there are many differences and similarities between two informal legal systems (Platsas, 2008).

Problems and limitations

Time-consuming is a massive problem in this approach. Designing, asking expert lawyers and questionnaire is impossible to use to identify that, how both ADR systems are working in the either country in practice for two main reasons: firstly, it might take time; secondly, this also might require permission, which is hard to achieve.

The most used type of ADR and their common rules and principles

There are several forms of ADR, everywhere. However, because of the limited word count of this paper, I will explain the most significant systems of ADR, which includes Negotiation, Conciliation, Mediation and Arbitration.

Negotiation

Any communication form between the parties for the aim of getting a mutually agreeable resolution is called negotiation. In this method of ADR, the disputants may represent their arguments by themselves or might be represented by a negotiating agent or agents. Then, the parties or their agents will preserve their control over the negotiation process (Fiadjoe, 2004). Negotiation is informal and open-ended methods and it does not typically involve any go-between impartial (third party) (Leshchinskiv, 2013). Further, negotiation represents the primary route to decision and action in the social world to achieve a compromise award (Roberts &Palmer, 2005). Moreover, negotiation could be used for solving several arguments in international relations between States as cited in Article 19 in the dispute between the government and foreign investors. Nonetheless, if the disputes between the governments have not discussed via negotiation the domestic court should consider as a choice of negotiation (Hovida &Sadeghieh, 2002). For example, in the case of Walt Disney and the French Government in regards the creation of Euro Disney, negotiation was used (Kremenyuk &Sjostedt, 2000). Also, it can be used for resolving the political disputes between the States. Such as, in the case of Andorra and the European Community (EC), Andorra succeeded in obtaining sovereignty in 1993 after 5 years of negotiation between Andorra and the European Community (Emerson, 2007). Similarly, there might be some weaknesses of using the negotiation process as it might not be a suitable process for some of the cases. For instance, where the party merely seeks to delay resolution rather than wish to solve it (Brown, 1991).

Conciliation

Conciliation is a voluntary procedure, which the neutral third party involves for assisting the parties in reaching a settlement and facilitates negotiations between the parties. The conciliator has a significant role, such as facilitating the discussions between the parties to settle the dispute. For that, it is crucial for the conciliator to have the parties' trust. Likewise, in this procedure, if the parties could not put forward any proposals to resolve their matter the conciliator may express an opinion and will suggest a solution on the merits of the dispute (Blake, Browne & Sime, 2011). As the other forms of ADR, conciliation has some rewards and drawbacks. There are some benefits, which could cause from using conciliation. For example, through this process, the parties might choose the language, place, time, and select the expertise to settle their disputes. Therefore, as it is a flexible and informal process, the parties could save their time and money. Correspondingly, the business secrets will remain confident in this process (Justice, 2010). Conversely, there are some weaknesses of the conciliation process. For instance, it could be seen as a time-consuming, if the dispute has not been resolved at conciliation. Moreover, fear of losing impartiality by the conciliator

(Ndimurwimo, 2008). Conciliation is different from negotiation as the third party is involved in this method. Equally, it different from arbitration as the arbitrator's award might be binding for the parties. Also, in the United Nations Commission on International Trade Law (UNCITRAL) perspectives while, conciliation and mediation are not substantially different, but the amount of involvement of the third party has made them different (Moses, 2012). Correspondingly, it has been noticed that in the Law Reform Commission Act 1975 all agreements reached via conciliation are relying only on the underlying parties' interests and the legal rights of the parties may also be taken into attention by the conciliator when allotting a recommendation (White LLB, 2010). According to the Advisory, Conciliation and Arbitration Service (ACAS) annual reports, 72,000 claims in 2013 have been dealt with by the ACAS individual conciliation. Besides, in April 2009 pre-claim conciliation scheme has been launched (ACAS, 2012) which it means before a claim be lodged with the tribunal employment all the claims should come to ACAS first; (Thomas & Nationwide Building Society, 2014), which it has been solved by conciliation procedure.

Arbitration

Arbitration is a procedure of bringing business disputes before an impartial third party for resolution. The third party, an arbitrator, will hear the evidence that has been brought by the parties. Correspondingly, the arbitrator will make a verdict, which is legally binding for the parties. Similarly, the decision is enforceable in the courts for the parties unless they already have an agreement against that (The Business Dictionary, 2020). Moreover, arbitration is one of the methods of ADR which both sides of disputes are agreeing to, their disputes via a third party (Margaret &John, 1996). Furthermore, since there is a quasi-court character by the arbitrator, so it makes it different from the mediation approaches. Likewise, there are many gains in choosing the arbitrator by the parties. For example, they could choose someone who has expertise in the area of the dispute. Also, the role of the arbitrator is nearly similar to the judge's role (Ciarb, 2014). The arbitrator condenses the judgment based on evidence presented by the parties. The Arbitration Act 1996 has managed the arbitration process in the UK, which it was drawn up by the 'Departmental Advisory Committee' (DAC). Conversely, arbitration could be found in the "United Nations Commission on International Trade Law (UNCITRAL) Model Law, which it was established by the Department of Trade and Industry (Susan, Julie &Stuart, 2012). Additionally, there are three ways for arising arbitration. First, by the court referring, which the judge could refer the disputes to the arbitrator. Second, by statue such as the International Arbitration Centre in London. For example, in some of the certain disputes the disputes must go to arbitration (Darbyshire, 1998). Finally, by contract between the parties (Scott, 1856), all disputes over the assertion will be referred first to the arbitration.

Common rules and principles

The parties in each system of ADR, could choose the most suitable methods in order to resolve their dispute. Likewise, the most important notice is that the parties' choice is not restricted to use only one method of ADR. However, they could determine the agreeable method and its details. Correspondingly, in contrast to the litigation the awards of all the ADR methods expect arbitration are not binding for the parties. Generally speaking, ADR has two types, which non-binding is one of them. Besides, negotiation is the most common form that occurs between the parties in disputes. Through the form of negotiation, the parties seek to resolve their issue, with a result being binding only if the parties come to an agreement. Correspondingly, binding is the second types of ADR, which it includes such ADR processes as arbitration that it might be organized by the Commercial Arbitration Act 1984 (Utz, 2010). Moreover, the performance of the third party, who has been determined by the parties or by

the International Chamber of Commerce (ICC), is too significant in compulsory or voluntary systems. Similarly, they can be agreed on what that specific condition should the third person has. Additionally, the other common rules which it has made the system difference from litigation is that, it is faster, less expensive and privacy. Further, the third party could not testify in the court about the disputes that have been tried to solve by them (Jahromy, 2002). As well, it has flexibility levels in all the methods of ADR and there is more focus on the agreement in all ADR procedure (Blake, Browne &Sime, 2011).

The benefits of ADR

As there are several profits of ADR, which some of them have been briefly revealed earlier, in this chapter I will try to elucidate some the most favorable rewards, that could cause from utilizing the ADR methods.

Quicker

Whether ADR be obligatory, voluntary or hybrid, there are some benefits of them over the litigation. However, their aims to make lower costs of justice, making the judicial processes shorter, no animosity between warring parties, and avoiding formal legal action will remain the same. Moreover, in the end the result in a much more actual handling of lawful disputes in the region (Andrej, 2013). Therefore, one of the most favorable advantages of ADR formulas is that ADR forms are quicker than litigation in order to reach a final decision (Worldbank, 2011). Likewise, according to Lord Woolf, ADR processes for settling the arguments is much quicker than litigation and Lord believes that negotiation is the quickest methods of ADR, about finding a possible solutions to the disputes (Woolf, 1996). Meanwhile, it might take a long time for having a case heard by a jury or judge. Additionally, the court route is much lengthier than informal litigation (Albright, 2012). Correspondingly, nowadays, in the Great Britain it has been considered that, ADR is as a faster means of effective argument resolution (Scottish Civil Justice Council). Consequently, undoubtedly it will take many more months to resolve the same disputes, which it has been settled through the adjudication process (Armstrong, 2014). Moreover, the Reason Foundation in 1989, reported that there were 80,000 cases in the United States Tax Court and for resolving those cases they might need 24 months, but they estimated that if they resolve the disputes via ADR it would take just 6 months (Thierer, 1992). Furthermore, these benefits can be realized very visibly (Borden & Texaco, 1981), which for solving their disputes via the litigation, they might need several years, but their disputes have been resolved through ADR (negotiation) in just a three month.

Amicable way

One of the other recognizable rewards of ADR is that, it is an amicable way for resolving the disputes. Since, litigation is more adversarial than the arbitration, mediation and conciliation. Also, for preserving the future business relationship between the parties, ADR modalities are considered as more likely to induce the parties for resolving their disputes in the amicable manner (Islam, 2011). Therefore, through the ADR forms the parties' business relationships could be maintained even after resolving the dispute. As it is normal to have some disputes between the companies (parties) such as in the *Apple v Samsung* (2012), which they used negotiation form for settling their disputes (PON STAFF, 2013). Furthermore, pursuant to the Reisinger (Mazirow, 2008) 'Samsung will produce 75 percent of the processors Apple needs for its next slate of iPhones. Though, in the court even if the parties did not begin, they could become enemies because of the adversarial nature of court cases. In some certain cases as such, commercial cases where the two parties may need to continue trading together after the dispute and divorce cases in which children are involved it will be undesirable (Powlesland, 2003).

Binding and final decision

ADR's final gains would be the final decision, as some of the forms of ADR are not binding and some of them are binding. Therefore, if the non-binding form of ADR has been chosen by the parties, the final reward will not be enforceable. Subsequently, binding forms of ADR without having the right of appeal has meant the end of the disputes, such as arbitration (Weis, 1999). Since, appealing a judgment of the court has been much easier than appealing the arbitrator's award. Consequently, there would be greater certainty for the successful party (Scott, 2014). Hence, binding arbitration has determined as a better method of dispute resolution in many fields, securities and construction. Correspondingly, it has been incorporated as an arbitration clause in their form contracts (Taylor &Brown 2014). Further, one of the other reasons for agreeing to binding arbitrations by the parties is that, they could avoid jurors (TXO Production Corp &Alliance Resources Corp, 1993).

Lack of finality or final decision

Since nearly most of the ADR processes are not binding for the parties, thus, the settlement by the other parties could be rejected, since they are free to do that in non-binding ADR procedures. However, ADR has could be seen as compulsory, such as in the case of *Dunnett v Railtrack* (2002) As Railtrack won the case, but without getting their costs as they refused ADR without showing any reasonable reasons for refusing attending ADR (Dunnet & Railtrack, 2002). It can also be seen in, the Halsey v Milton Keynes General NHS Trust. Also, according to the Article 1.4 of CPR the parties should be encouraged by the court to use ADR. Similarly, in Article 1.3 of CPR it has been cited that the parties are required to assist the courts in furthering this objective (Civil Procedure rules, 1999). Therefore, theses could be against the Article 6(1) of the European Convention on Human Rights, which is about the right to a fair trail (Waring, 2014). Based on Carneiro, Novais and Neves even if the parties are been agreed with the outcomes, they are not being forced to comply it (Carneiro, Novais & Neves, 2014). Consequently, the charge and stretch might exceed, if the parties reject the settlement (Lamari, 1994). The lack of finality of outcome could has been perceived in both mediation and negotiation as they always have been used to complement the litigation. Moreover, negotiation between disputants from different cultures and countries might not often be possible (Wang, 2000).

Complexity and expense

ADR might be complex and overhead for the parties as such arbitration hearings may still be expensive and complex. Though, generally speaking ADR is inexpensive than using court proceedings, depending on the subject matter of the dispute. Since, there are trained arbitrators and professionals, the cost might increase (Lawmentor, 1996). Similarly, the arbitration process could cost more money if the parties require a more formal hearing, especially if witnesses, evidence and lawyers have been used (Maltby, 2007). Likewise, Darrell Paster (John, 1994) about time and cost pinpoints that; he has been handled two cases through ADR. He says, 'They have taken just as long as they would have in court and cost just as much in litigation expenses'.

The most appropriate system of ADR for applying in Iraq and Kurdistan

As it is clear that the main targets from all the laws, international law, conventions and other methods and alternates are resolving the disputes. Without doubt, it would be favorable to the people and even to the governments if the governments for dealing with problems try to choose the most applicable system in regards of settling the person’s arguments. Accordingly, in order to specify the best system of ADR whether to be mandatory, voluntary or hybrid and

applying it in Iraq and Kurdistan. I will describe the best schemes that would be worth applying for. Hence, it is true that ADR is generally taken to refer to the class of resolution methods that are friendly, quicker, cheaper and the parties could control the process. Conversely, it does not mean that without any evaluating they could apply ADR other than the court for resolving disagreements. Consequently, there might be beneficial to look at the kinds of the problems and legal environment in which the argument exists, before even starting to look at any methods of ADR.

Since, the role of the all ADR practitioners is relevant to the legal environment and the styles of disagreements (Connerty, 2008). Therefore, a civil law legal system does not place greater emphasis on previous court decisions then do common law jurisdictions. Moreover, in the common law jurisdiction, lawyers need to work more closely with case law than do lawyers operating in civil law countries (Cohen & Emeritus, 2003). In the both systems, the parties' control may be weakened, eventually to zero when the court reaches its conclusions in both Civil and Common Law jurisdictions. However, there is not a huge difference between civil and common-law system in utilizing ADR methods. Subsequently, knowing a bit about the legal system of Iraq and Kurdistan would be valuable, as it has been mixed in civil and Islamic law. Iraq law systems participated in France and modified by a variety of sources such as the Egyptian legal system (Luther, 2008). Though, unless the parties themselves agree at the end of the process that any solution to the dispute shall then be made binding by making a new agreement, it has to be clearly understood from the start that most ADR processes produce a non-binding results. Moreover, reaching an accommodation is the aim of all the ADR process and that could not reflect the exact legal standing of the parties, but it would be an acceptable solution that the parties can be agreed on (Cohen, 2003). Furthermore, the law system could not make an effective consequence of the party's power. Nevertheless, in the wholly ADR process the parties could control the process. For example, in designing the process the parties have a significant amount of freedom of choice in the ADR process (Arrastia & Underwood, 1993).

As I will try to illuminate the most appropriate system of ADR for Iraq and Kurdistan, I think for more understanding it would be better first to explain the systems, that people in Iraq and Kurdistan resolve their problems. There are numerous methods for resolving the arguments in the Middle East in general and Iraq and Kurdistan in particular such as, religion, tradition and culture which they are still the main sources for resolving the disputes. Since, it has been only natural for Islam and Sharia for calling to settle the problems in an amicable manner, as the rise of Islam was accompanied by a request for peace (Malkawi, 2012). In Iraq, there exists indigenous techniques and procedures for the diverse varieties of conflicts such as, family, community, and state conflicts. For instance, the rituals of Musalaha (reconciliation) and Sulh (settlement) are the Arab-Islamic culture of approaching conflict resolution in the Middle East (Iraani, 2000). Also, Sulh has been preferred by the Arabic tradition as a concept of reconciliation and settlement over formal litigation (Iqbal, 2008). Similarly, there are also some rules in the Iraq and Kurdistan laws that discourse about tahkim, which means and the way of its using is close to arbitration. For example, Article (251- 276) in Iraqi Civil Procedure Law 1969 refers to the use of tahkim (arbitration) and the field that they have been used (Iraqi Arbitration Law-Civil Procedure Law, 1969). When the Civil and Commercial Procedures Law in 1956 had been launched, Article (149 - 139) in chapter four had been devoted for tahkim, which most of the provisions have been drawn in the Ottoman law (Al-Awadi, 2011). According to the Article (253) in the same law, tahkim has to be accepted or refused by the parties in the first meeting otherwise the parties cannot be able to refuse it after the first meeting, unless it has been agreed by each of the parties. Further, however, tahkim is not mandatory for the parties (Abdullah, 2005). Nonetheless, rendering to the Article (41) of the Iraqi Personal Status Law tahkim would be compulsory for the parties in all the personal

status disputes (Iraqi Personal Status Law, 1959). What is motivating is that the majority of the Iraqi Law provisions as the Civil and Commercial Procedure Code, 1956 had been referred to the Egyptian Procedure Code (Sami, 2008). Supplementary, in the Iraqi Tahkim Law-Civil Procedure Law 1969, in Article (257) it has been cited that 'the multiplicity of arbitrators must be odd in number except in the case of arbitration between the spouses'. Nevertheless, no methods of ADR are stated (Iraq, 2011). Consequently, there are not any Articles in Iraqi Laws, which talks about arbitration, negotiation, mediation and conciliation explicitly or implicitly (Iraqi Arbitration Law-Civil Procedure Law, 1969).

In fact, it would be decent as the main purpose of all the alternatives is resolving the disputes. Though, the problem is that when persons who are acting as a mediator, conciliator, and arbitrators are not being familiar with the field that the problem exist. Besides, they have been chosen by the parties just because they have information about Sharia, Sulh, Customs or they have a high respect position in the society. Regardless of the information about the clashes that they have to have it, sometimes even they do not care about legal information. Hence, their award might not be fair for the disputants. Unfortunately, most of the disagreements have settled by these ways in the past and even now in Iraq and Kurdistan. Nonetheless, it is accurate that everybody wants their disputes been resolved, but not been harmed because of the arbitrator's erroneous award. Thus, people, governments, and lawyers must look for the best alternative, which ADR could be the excellent one. Since, ADR has utilized in the most of the countries and it has had a good result in both systems common law as the UK, Australia, Canada and civil law, as France and Italy. For instance, ADR has not only condensed the Italian courts caseload, it also shrinks the fears of foreign investors in Italy, as there is a lack of protection by the court (Phillips, 2004). Further, based on the (ICC) which has been headquartered since 1923 in Paris France has been selected as the most popular arbitral seat and it also being selected ahead of the United States, the UK and Switzerland (Altman, 2012). Meanwhile, of the research it would be better that if the governments try to make the fitting grounds for applying ADR forms first. Hence, as this is an ideal time for introducing ADR techniques and re-construction the Iraq and Kurdistan cultures. Subsequently, there would be a correct time in their development to make known the conflict resolution option presented by ADR and to try to incorporate the ADR methods into their structures as they see fit (Oswald, 2003). For instance, in Australia some of the commenters believe that it is possible that law students will become legal practitioners without ever learning that legal disputes might be resolved meritoriously outside of the court (Duffy & Field, 2014). Moreover, the majority law schools in Australia are implicitly accepting that tomorrow's lawyer does not necessarily need to know about ADR forms, until ADR is made a mandatory subject in the law degree.

Additionally, for answering that why in the law degree ADR must be a compulsory subject, teen strong reasons have been made by them. These are: Current teaching does not reflect legal practice, participation in ADR processes is mandatory under certain legislation; lawyers have a duty to advice about ADR, good lawyers possess emotional intelligence and ADR instruction increases emotional intelligence, lawyers need to understand about the nature and theory of conflict, teaching ADR supports law students' psychological well-being. It is impossible to satisfy the threshold of learning outcomes for law without exposing students to ADR instruction. ADR instruction can help students to develop a positive professional identity, NADRAC supports the mandatory inclusion of ADR in the law curriculum and law schools should support the goals of NADRAC and Law students are demanding dispute resolution skills and knowledge all those reasons are showing that the ground for introducing ADR is fit in Australia for the mandatory methods of ADR or some forms in some places in Australia (Duffy &Field, 2014). For example, in South Australia, mediation has ordered

deprived of the parties consent (Sourdin, 2003). See *Barry Hopcroft and Barameda Fishing Company v A M Olsen and Ors* (1998) case.

3. DISCUSSION AND CONCLUSION

However, there might be some downsides of using ADR methods in some instances there might be beneficial to utilize ADR as it also has its own advantages as such they are confidential, speed, cheaper and less formal in which dispute are being resolved. Supplementary, according to the proverb, that it says 'there are more ways than one to skin cats' (Dictionary, 2005). Accordingly, it could be presumed that there are several ways for resolving the disputes. Conversely, it is significant to know which way would be the finest one whether for the disputants about time, money and confidentiality and even for the court about reducing its burden. As it is clear that litigation is an affluent, protracted and exhausting process (Siol, 2020). Subsequently, the use of ADR offers ways to provide well-planned and creative settlement of the cases. Additionally, it can help to reduce direct and indirect costs associated with litigation. It also may be efficient in terms of time devoted to the cases (McWilliams, 2002).

The use of ADR in the UK has been improved and a mixed approach to ADR in the UK could be seen evidently. For example, the Financial Ombudsman Service, which it well established schemes in regulated sectors where ADRs use, is compulsory (Willot, 2014). Nonetheless, there have been some dangerous unintended consequences of the UK in using ADR, particularly in a mediation form. Since, the parties according to the Civil Procedure Rules (CPR) are free to go to mediation or not as the UK, system of ADR is voluntary. Moreover, Lord Woolf did not propose that ADR should be compulsory before or after the issue of proceedings, the inclusion in the Civil Procedure Rules of a judicial power to direct the parties to attempt ADR coupled with the court's discretion to impose a cost penalty on those who behave unreasonably during the course of litigation, has created a situation in which parties may feel that they have no choice' (Genn, 2013). As it would be problematic for accepting that, compulsory attendance of the gatherings will always promote the justice (Green, 2010). Hence, there would be a risk for the parties if they unreasonable rejected to ADR. See the High Court's decision in *Royal Bank of Canada Trust Corp. v. Secretary of State for Defence* (2003) case in the relation to the use of ADR. The Ministry of Defense rejected the suggestion of using ADR for resolving the disputes. While, the claimant was willing to try to resolve the dispute by ADR (Royal Bank of Canada Trust Corp. & Secretary of State for Defence, 2003). The Ministry was successful to the point of law In the High Court, but because of its refusal to mediate the judge refused to award the Ministry its legal costs (Genn, 2013). Consequently, the inclination and ability of the courts to use the enforcement measures available to parties are a crucial element of ADR's success. Though, the duty of the court should be sought to encourage rather than 'compel' in the real sense of the word (Bainsfar, 2020). Therefore, I personally believe that ADR process will have the huge role if it does not much now. Then, it would be upright if it becomes, as an alternative to the court, even it would be virtuous if it also become a part of studying in Iraq and Kurdistan law schools.

Currently, Kurdistan has been counted as a place where finding the raw materials and oil is not that much harder. Hence, local law might not be sufficient for resolving the domestic and international arguments in all of the fields and for making the foreign stockholders contented. Furthermore, as 'Iraq is a war-torn country, therefore it needs to make investors feel comfortable, and one of the ways you make investors feel comfortable is to agree that you will resolve disputes outside of your own courts' (Bermann, 2010). Consequently, agreeing on what have been quoted earlier all the ADR systems might work truthfully. However, it just

needs a proper ground, glowing research and well studying. Therefore, in my perspective, there might be some disadvantages of utilizing ADR in developing countries as such Iraq, especially in the first utilizing decades of ADR. Since, the traditional ways for resolving the disputes have been imposed everywhere. Nevertheless, there will be several rewards of using ADR methods, which getting rid of a custom, culture and religion techniques for settling the dispute would be the most fundamental one, that would be resulted from using ADR in Iraq and Kurdistan.

SECONDARY SOURCES

Books

[1] Abdullah T, *Tahkim in the Civil Disputes and Legitimacy*: Comparative Study (Salahuddin University, Erbil 2005).
[2] BA K**,** *Court Referral to ADR: Criteria and Research* (NADRAC, Australian 2003).
[3] Barrett J and Barrett J, *'A History of Alternative Dispute Resolution the Story of a Political* (Jossey Bass, San Francisco 2004).
[4] Bevan A, *Alternative Dispute Resolution* (Sweet & Maxwell, London 1992).
[5] Blackaby N and others, *Redfern And Hunter On International Arbitration* (5th edn, Oxford, Oxford Uneversity Press 2009).
[6] Blake S, Browne J and Sime S, *A Practical Approach to Alternative Dispute Resolution* (Oxford UP 2011).
[7] Brown H, *Alternative Dispute Resolution* (The Law Society, London 1991).
[8] Brown H. and Marriott A, *ADR Principles and Practice* (Sweet and Maxwell, London 2011).
[9] Carneiro D, Novais P and Neves J, *Conflict Resolution and Its Context: From the Analysis of Behavioural Patterns to Efficient Decision-Making* (Braga, Springer 2014).
[10] Chapman Ch, Gibson J and Hardy S, *ADR in Employment Law* (Cavendish 2003).
[11] Darbyshire P, *English Legal System in a Nutshells* (4th edn, Sweet & Maxwell, London 1998).
[12] Emerson M, *Andorra and the European Union* (Center for European Policy Studies, Brussels 2007).
[13] Fiadjoe A, *ALTERNATIVE DISPUTE* (Cavendish Publishing Limited, London 2004).
[14] Fiadjoe A, *Alternative Dispute Resolution: A Developing World Perspective* (Cavendish Publishing Limited, London 2004).
[15] Haley N, Jacqueline M, *Alternative dispute resolution in a nutshell* (4th edn, St. Paul, West 2013).
[16] Howse Ge, Naksook Ch, Halstead D and Honigman R, *The use of Alternative Dispute Resolution in Australia and New Zealand* (La Trobe University, New Zealand 2004) .
[17] Ian E, *Dispute Resolution in Construction Management* (UNSW Press, Sydney 2003).
[18] Kheel Th, *The Keys To Conflict Resolution: Proven Methods For Resolving Dispute Voluntarily* (New York, Four Walls Eight Windows 2001).
[19] Kremenyuk V and Sjostedt G, *International Economic Negotiation Models Versus Reality* (Edward Elgar Publishing Limited , Cheltenham 2000).
[20] Lang P, *Consultation within WTO Dispute Settlement: A Chinese Perspective* (Bern, International Academic 2007).
[21] Margaret R and John S, *Arbitration Act 1996 A Practical Guides* (Law & Tax 1996).
[22] Moses M, the Principal and Practices of International Commercial Law (Cambridge, Cambridge UP 2008).

[23] Moses M, the Principles and Practice of International Commercial Arbitration (2nd edn, Cambridge UP, Cambridge 2012).
[24] Roberts M, *A - Z of Mediation* **(**Palgrave Macmillan, London 2014).
[25] Roberts S and Palmer M, *Dispute processes: ADR and the Primary Forms of Decision Making* (Cambridge UP, Cambridge 2005).
[26] Salter M and Mason J, *Writing Law Dissertations* (Pearson Education Limited 2007).
[27] Sami F, *Compared Study with the Provisions of the International Commercial Althkym* (Dar al saqafa, Amman 2008).
[28] Shepherd A, Sparks J and Radford A, *My Revision Notes Law* (London, OCR 2013).
[29] Tribe D, *Negotiation* (Cavendish Publishing Limited, London 1993).
[30] Waring M, *Commercial Dispute Resolution* (Guildford, CLP 2014).

Journals

[1] Antonios Emmanuel Platsas, 'The Functional and the Dysfunctional in the Comparative Method of Law: Some Critical Remarks' (2008) 12 EJCL.
[2] Arrastia J and Christi L. Underwood, 'Arbitration you Control the Process v Litigation the Process Controls you' (1993) 64(4) DRJ.
[3] Ayal O and Perry R, 'Imbalances of Power in ADR: The Impact of Representation and Dispute Resolution Method on Case Outcomes' (2014) 39(4) LSI.
[4] Bamber G, 'Conciliation, Arbitration and Human Resource Management: A. British Perspective*. Asia Pacific' JHR (1987) 25 (2) JH1.
[5] Blain N, Goodman J and Loewenberg J, 'Mediation, conciliation and arbitration An internatioal comparison of Australia, Great Britain and United States'(1987) 126 (2) ILR.
[6] Boulle L, 'A History of Alternative Dispute Resolution' (2005) 7 (7) AB.
[7] Connerty A, 'Alternative Dispute Resolution in Small States' (2008) 34 (2) CLB.
[8] Duffy J and Field R, 'Why ADR must be a mandatory subject in the law degree: A cheat sheet for the willing and a primer for the non-believer' (2014) 25(1) ADR.
[9] Genn H, 'What Is Civil Justice For? Reform, ADR, and Access to Justice' (2013) 24(1) YJLH.
[10] Green C, 'ADR: Where did the 'alternative' go? Why mediation should not be a mandatory step in the litigation process' (2010) 12(3) AB.
[11] Iqbal W, 'Courts, Lawyering, and ADR: Glimpses into the Islamic Tradition' (2008) 28(4) FULL.
[12] Islam M, 'Efficiency and Effectiveness of Alternative Dispute Resolution Schemes Towards the Promotion of Access to Justice in Bangladesh' (2011) 8 (1813-7733) LLUCS.
[13] J ahromy M, 'Take Replaced Dispute Resolution Practices in the New ICC Rules' (2002) 26 LJ.
[14] John Th, Dispute Resolution (1994) 10 (3) CFO.
[15] Lamari M, 'The Role of Alternative Dispute Resolution in Government Constriction Contract Dispute' (1994) 23 (1).
[16] Mackie k, 'Lessons from Down-Under: Conciliation and Arbitration in Australia' (1987) 18 (2) PRJ.
[17] Malkawi B, 'Using Alternative Dispute Resolution Methods to Resolve Intellectual property Disputes in Jordan'(2012) 43(1) CWILJ.
[18] McManus M and Silverstein B, 'Brief History of Alternative Dispute Resolution in the United States' (2011) 1 (3) PLTLA.

[19] Sharma A, 'Judicial Intervention in International Commercial Arbitration: Critiquing the Indian Supreme Court's Interpretation of the Arbitration and Conciliation Act, 1996' (2014) 3(1) IJAL.
[20] Sourdin T,' ADR in the Australian court and tribunal system'(2003) 6(3) GTM.
[21] Taylor D. and Brown J, 'Arbitration and Other Forms of ADR in Real Estate Deals' (2014) 28 (2).

Table of other articles

[1] (ACAS) Annual Report and Accounts (2012) 'Advisory, Conciliation and Arbitration Service' House of Commons, ISBN: 9780102979497.
[2] Andrej M, 'The advantages of ADR ' (2013) (0960-5002) MIP.
[3] National Consumer Council (1993) 'Settling consumer disputes: a review of alternative dispute resolution' NCC Grosvenor Gardens London SW1W ODH.
[4] National Pro Bono Resource Centre (2012) 'Alternative Dispute Resolution: Assisting people experiencing disadvantage' The Law Building, University of New South Wales, UNSW SYDNEY NSW 2052 Australia.

Online sources

[1] ag, 'Report to the Commonwealth Attorney-General A Framework for ADR Standards National Alternative Dispute Resolution Advisory Council April 2001 Report to the Commonwealth Attorney-General A Framework for ADR Standards National Alternative Dispute Resolution Advisory Council' (ag 2001) <https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0CCYQFjAB&url=http%3A%2F%2Fwww.ag.gov.au%2FLegalSystem%2FAlternateDisputeResolution%2FDocuments%2FNADRAC%2520Publications%2FFramework%2520for%2520ADR%2520Standards%2520Preliminaries.pdf&ei=NpjqVN_XFtLhaqWbgJgO&usg=AFQjCNGddxUZs848XFSev2aicJVVF0onZA> accessed 22 February 2015.
[2] Al-Awadi R, 'International Commercial Althkym ..... Methods For Resolving Disputes.' (*ahewar*, 2011) <http://www.ahewar.org/debat/show.art.asp?aid=243004> accessed 25 July 2015.
[3] Albright M, 'The Advantages and Disadvantages of ADR' (albrightstoddard 2012) <http://www.albrightstoddard.com/blog/bid/223519/THE-ADVANTAGES-AND-DISADVANTAGES-OF-ADR> accessed 3 June 2015.
[4] Altman A, 'Current State of Arbitration And Mediation' (*businessconflictmanagement*, 2012) <http://businessconflictmanagement.com/blog/2012/06/france-current-state-of arbitration-and-mediation/> accessed 13 August 2015.
[5] Armstrong D, 'Is alternative dispute resolution taking centre stage?' (inhouselawyer 2014) <http://www.inhouselawyer.co.uk/index.php/scotland-home/10495-is-alternative-dispute-resolution-taking-centre-stage> accessed 8 June 2015.
[6] Bainsfair B, 'To What Extent Does ADR, As A Method Of Resolving Disputes, Overcome The Problems Associated With Litigation In England And Wales. Are Parties Compelled By Law To Attempt ADR And Is This Necessary?' (sjol) <http://www.sjol.co.uk/issue-6/to-what-extent-does-adr-as-a-method-of-resolving-disputes-overcome-the-problems-associated-with-litigation-in-england-and-wales-are-parties-compelled-by-law-to-attempt-adr-and-is-this-necessary> accessed 28 July 2015.
[7] Barrett J. and Barrett J, 'A History of Alternative Disputr Resolution' (adr 2009) <http://www.adr.gov/events/2009/may7-2009-materials-history.pdf> accessed 17 February 2015.

[8] Bermann G, 'Law School Trains Iraqi Practioners in Arbitration' (*Law*, 2010) <http://www.law.columbia.edu/magazi
a. ne/54724/law-school-trains-iraqi-practitioners-in-arbitration> accessed 4 August 2015.
[9] ciarb, 'Arbitration is a non-judicial process for the settlement of disputes where an independent third party – an arbitrator – makes a makes a decision that is binding' (ciarb 2014) <https://www.ciarb.org/dispute-appointment-services/das-arbitration> accessed 1 June 2015.
[10] Clarke M, 'Employment & Labor Practice: Alternative Dispute Resolution' (*sgrlaw*, 2000) <http://www.sgrlaw.com/resources/briefings/employment_labor_practice/472/> accessed 12 June 2015.
[11] Cohen M, 'Alternative Dispute Resolution' (*euroexpert*, 2003) <http://www.euroexpert.org/fileadmin/euroexpert/documents/downloads/alternative_dispute_resolution.pdf> accessed 27 July 2015.
[12] Cohen M and Emeritus Ch, 'Alternative Dispute Resolution' (*euroexpert*, 2003) <http://www.euroexpert.org/fileadmin/euroexpert/documents/downloads/alternative_dispute_resolution.pdf> accessed 22 July 2015.
[13] Dibley S, 'Do you think that the courts offer the best means of solving disputes?' (peterjepson 2004) <http://www.peterjepson.com/law/Steven%20Dibley%20ADR.htm> accessed 10 June 2015.
[14] Dictionary, 'There's More Than One Way to Skin a Cat' (2005) <http://dictionary.reference.com/browse/there's+more+than+one+way+to+skin+a+cat> accessed 27 July 2015.
[15] D Luther, 'Establishing Justice in Iraq: A Journey Into The Cradle Of Civilization' (*iaca*, 2008) <http://www.iaca.ws/files/LWB-DanThomas.pdf> accessed 27 July 2015.
[16] Doyle M, 'Why use ADR? Pros & cons: Thinking about ADR. asauk. Available at' (2012) <http://asauk.org.uk/wp-content/uploads/2013/08/Why-use-ADR.pdf/> accessed 13 Jun 2015.
[17] Eshetu Tand Getu M (*joptc*, 2009) <http://www.joptc.gov.et/joptc/Portals/0/alternative-dispute-resolution.pdf> accessed 11 June 2015.
[18] findlaw, 'The Advantages of Mediation Cases over Traditional Lawsuits - See more at: http://adr.findlaw.com/mediation/the-advantages-of-mediation-cases-over-traditional-lawsuits.html#sthash.XCBf9IbB.dpuf' (findlaw 2014) <http://adr.findlaw.com/mediation/the-advantages-of-mediation-cases-over-traditional-lawsuits.html> accessed 10 June 2015.
[19] FindLaw, 'What Are The Differences Between Adjudication And Arbitration?' (2015) <http://findlaw.co.uk/law/dispute_resolution/alternative_dispute_resolution/280.html> accessed 13 August 2015.
[20] Freehills H, Leydecker S, Oddy A and Phillips A, 'Australia: at What Stage is it Appropriate for the Court to Refer Cases to ADR?' (lexology 2012) <http://www.lexology.com/library/detail.aspx?g=3c496d83-176b-4113-b1d5-80fc8e98c240> accessed 28 February 2015.
[21] Hovida Y, 'Alternative Approaches or Non-judicial Settlement of Disputes' (ghazavat 2002) <http://ghazavat.com/32/maghale.htm> accessed 26 February 2015.
[22] Hovida Y and Sadeghieh D, 'Alternative Approaches or Non-judicial Settlement of Disputes' (ghazavat 2002) <http://ghazavat.com/32/maghale.htm> accessed 26 February 2015.
[23] Huberman M, 'When ADR Works And When It Doesn't' (advocatedaily, 2014) <http://www.advocatedaily.com/areas-of-law/when-adr-works-and-when-it-doesnt.html> accessed 13 June 2015.

[24] Irani G, 'Islamic Mediation Techniques for Middle East Conflicts' (*mediate*, 2000) <http://www.mediate.com/articles/mideast.cfm> accessed 24 July 2015.
[25] Iraq, 'Iraqi Arbitration Law-Civil Procedure Law No. 83 of 1969' (2011) <http://www.iraq-lg-law.org/en/node/502> accessed 25 July 2015.
[26] justice, 'ADR And The Courts System' (2011) <http://www.justice.govt.nz/publications/publications-archived/2004/alternative-dispute-resolution-general-civil-cases/6-adr-and-the-courts-system> accessed 9 July 2015.
[27] justice, 'Conciliation ' (justice 2010) <http://www.justice.qld.gov.au/__data/assets/pdf_file/0007/12859/conciliation.pdf> accessed 1 June 2015.
[28] lawmentor, 'The advantages and disadvantages of using alternative dispute resolution' (lawmentor 1996) <http://www.lawmentor.co.uk/resources/essays/the-advantages-and-disadvantages-ADR/> accessed 12 June 2015.
[29] lawmentor, 'The Advantages And Disadvantages Of Using Alternative Dispute Resolution' (1996) <http://www.lawmentor.co.uk/resources/essays/the-advantages-and-disadvantages-ADR/> accessed 11 June 2015.
[30] lawreform, 'Alternative Dispute Resolution: Mediaation and Concilaition' (lawreform 2010) <http://www.lawreform.ie/_fileupload/reports/r98adr.pdf> accessed 27 February 2015.
[31] lawreform, 'Improving Alternative Dispute Resolution' Victorian Law Reform Commission - Civil Justice Review: <http://www.lawreform.vic.gov.au/sites/default/files/Chapter%2B4,%2BChapter%2B5.pdf> accessed 13 June 2015.
[32] Leshchinskiy P, 'Types of Alternative Dispute Resolution (ADR)' (legalmatch 2013) <http://www.legalmatch.com/law-library/article/types-of-alternative-dispute-resolution-adr.html> accessed 1 March 2015.
[33] Lewis L, 'The Role of Alternative Dispute Resolution Methods in the Constructionindustry and the Application of these methods in Hong Kong' (hku 1996) <http://hub.hku.hk/bitstream/10722/37025/1/FullText.pdf?accept=1> accessed 11 June 2015.
[34] Hamawandy, N. M., Omar, A. J., Abubakr, Z. A., Sulaiman, V., & Saeed, H. (2020). Review the Interaction Between Transactions with Affiliated Entities and Income Management in Companies Admitted To Tehran Stock Exchange Income management.
[35] Linklaters, 'Commercial Mediation - A Comparative Review' (2013) <http://www.linklaters.com/pdfs/mkt/london/mediation_2013_7053.pdf> accessed 19 June 2015.
[36] MacDonald P, Hargrove & Lee, Ltd, 'The Benefits of Alternative Dispute Resolution' (lawpmh 2011) <http://www.lawpmh.com/the-benefits-of-alternative-dispute-resolution> accessed 11 June 2015.
[37] Maher G, 'Australia: Alternative Dispute Resolution: Trends, Traps and Benefits' (mondaq 2012)
a. <http://www.mondaq.com/australia/x/170796/Arbitration+Dispute+Resolution/Alternative+Dispute+Resolution+Trends+Traps+and+Benefits> accessed 12 June 2015.
[38] Majid S, 'Iraq Arbitration Law' (mondaq, 2011) <http://www.mondaq.com/x/45310/Arbitration+Dispute+Resolution/Iraq+Arbitration+Law+> accessed 4 August 2015.
[39] Maltby R, 'Do You Think That The Courts Offer The Best Means Of Solving Disputes?' (*peterjepson*, 2007) <http://www.peterjepson.com/law/MaltbyLAS-7.html> accessed 12 June 2015.

[40] Manas A, 'The Use of Alternative Dispute Resolution to Resolve Intellectual Property Conflicts' (*rutgers*, 2012) <http://pegasus.rutgers.edu/~rcrlj/articlespdf/manas.pdf> accessed 15 June 2015.
[41] Mazirow A, 'The Advantages and Disadvantages of Arbitration as Compared to Litigation ' (cre 2008) <http://www.cre.org/images/MY08/presentations/The_Advantages_And_Disadvantages_of_Arbitration_As_Compared_to_Litigation_2_Mazirow.pdf> accessed 13 June 2015.
[42] McNamara C, 'Alternative dispute resolution - is it worth it?' (findlaw 2015) <http://www.findlaw.com.au/articles/154/alternative-dispute-resolution---is-it-worth-it.aspx> accessed 11 June 2015.
[43] McWilliams J, 'Manual on Alternative Dispute Resolution' (*cobar*, 2002) <http://www.cobar.org/index.cfm/ID/211/subID/1244/CAAD/Manual-on-Alternative-Dispute-Resolution/> accessed 27 July 2015.
[44] mdrs, 'ADR Users Guide' (mdrs 2011) <http://www.mdrs.com/wp-content/uploads/2013/07/MDRS_ADR_Users_Guide_2012.pdf> accessed 12 June 2015.
[45] Ndimurwimo L, 'An Evaluation of the Dispute Resolution Mechanisms of Conciliation and Arbitration ' (nmmu 2008) <http://dspace.nmmu.ac.za:8080/jspui/bitstream/10948/753/1/LEAH%20ALEXIS%20NDIMURWIMO.pdf> accessed 1 June 2015.
[46] NewsArticles, 'Alternative or non-judicial means of dispute settlement, Arbitration, Mediation, Conciliation, Negotiation, and Neutral Evaluation' (NewsArticles 2012) <http://shorakj.ir/Default.aspx?tabid=1113&articleType=ArticleView&articleId=139885> accessed 2 March 2015.
[47] Oswald T, 'Iraq and Afghanistan: Opportunities for ADR' (mediate, 2003) <http://www.mediate.com/articles/oswaldt.cfm> accessed 4 August 2015.
[48] pensionsombudsman, 'Alternative Dispute Resolution: Settling Your Dispute Out Of Court' (2011) <http://www.pensionsombudsman.ie/cms/sites/default/files/Alternative_Dispute_Resolution_Settling_your_dispute_out_of_court.pdf> accessed 13 June 2015.
[49] Phillips P, 'ADR in Italy' (*businessconflictmanagement*, 2009) <http://businessconflictmanagement.com/blog/2009/12/adr-in-italy/> accessed 13 August 2015.
[50] PON STAFF, 'Apple v. Samsung: An Example of Negotiation in Business Gone Bad' (harvard 2013) <http://www.pon.harvard.edu/daily/business-negotiations/apple-and-samsung-a-dispute-between-business-negotiators/> accessed 13 June 2015.
[51] Powlesland P, 'Do You Think The Courts Offer The Best Means Of Solving Disputes?' (*peterjepson*, 2003) <http://www.peterjepson.com/law/Paul%20Powlesland%20ADR.htm> accessed 14June 2015.
[52] Pryor B, 'Alternative Dispute Resolution: Pros And Cons' (*pryorandbruce*) <http://pryorandbruce.com/Articles/ADR%20Pros%20and%20Cons.pdf> accessed 15 June 2015.
[53] Roberts S, 'The Mayor's And City of London' (*citydisputespane*, 2008) <http://www.citydisputespanel.org/media/downloads/Simon-Roberts-Second-Report.pdf> accessed 22 July 2015.
[54] Scottish Civil Justice Council 'Access to Justice Literature Review: Alternative Dispute Resolution in Scotland and other jurisdictions' <http://www.scottishciviljusticecouncil.gov.uk/docs/librariesprovider4/scjc-pubilcations/literature-review-on-adr-methods.pdf?sfvrsn=2> accessed 3 June 2015.

[55] Scott M, 'Dispute resolution in real estate contracts' (nabarro 2014) <http://www.nabarro.com/insight/briefings/2014/january/dispute-resolution-in-real-estate-contracts/> accessed 15 June 2015.
[56] Shamir Y, 'Alternative Dispute Resolution Approach and Their Application' (Israel Center for Negotiation and Mediation ICNM 1995) <http://webworld.unesco.org/water/wwap/pccp/cd/pdf/negotiation_mediation_facilitation/alternative_dispute_resolution_approaches.pdf> accessed 9 July 2015.
[57] Shamir Yona and Kutner R, 'Alternative Dispute Resolution Approaches and Their Applictions' (*unesco*, 2003) <http://webworld.unesco.org/water/wwap/pccp/cd/pdf/negotiation_mediation_facilitation/alternative_dispute_resolution_approaches.pdf> accessed 14 July 2015.
[58] sjol, 'Towards Mandatory Mediation In England?' <http://www.sjol.co.uk/issue-5/towards-mandatory-mediation-in-england> accessed 27 July 2015.
[59] Smith H, 'Pros and cons of common ADR processes ' (herbertsmithfreehills 2005) <http://www.herbertsmithfreehills.com/-/media/HS/Insights/Guides/PDFs/Alternative%20dispute%20resolution%20-%20the%20inside%20track/3%20prosandcons_ADR0508v2.pdf> accessed 10 June 2015.
[60] The Business dictionary 'Definition of Arbitration' <http://www.businessdictionary.com/definition/arbitration.html> accessed 19 December 2014.
[61] Thierer A (1992) 'Judgement Day: The Case for Alternative Dispute Resolution'
a. ASI (Research) Limited, London. <http://www.adamsmith.org/wp-content/uploads/judgement-day.pdf> accessed 8 June 2015.
[62] Trevor Buck 'Administrative justice and alternative dispute resolution: the Australian experience' (Department for constitutional affairs November 2005) <http://webarchive.nationalarchives.gov.uk/+/http:/www.dca.gov.uk/research/2005/8_2005_full.pdf> accessed 28 February 2014.
[63] Tupper D and Johnson A, 'Technical Versus Legal Arbitrators: Considerations, Advantages and Disadvantages' (adrcanada 2014) <http://www.adrcanada.ca/resources/documents/TupperDavid_CALGARY-31144932-v2-Technical_vs_Legal_Arbitrators_000.pdf> accessed 12 June 2015.
[64] unistudyguides (2013) <http://www.unistudyguides.com/wiki/Alternatives_to_Litigation> accessed 11 June 2015.