

UNIVERSITY OF GHANA

DEPARTMENT OF ORGANISATION AND HUMAN RESOURCE MANAGEMENT

ASSESSING ADR MECHANISMS AND ITS OUTCOMES OVER CONVENTIONAL
CONFLICT RESOLUTION MECHANISMS IN COMPANIES IN GHANA: A
COMPARATIVE STUDY OF DOMESTIC AND MULTINATIONAL COMPANIES

BY

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THIS THESIS/DISSERTATION IS SUBMITTED TO THE UNIVERSITY OF GHANA,
LEGON IN PARTIAL FULFILLMENT OF THE REQUIREMENT FOR THE AWARD OF
MPHIL IN HUMAN RESOURCE MANAGEMENT DEGREE.

JUNE 2018

DECLARATION

I hereby declare that this submission is my own work, to the best of my knowledge, it contains no material published by another person or material which has been accepted in any other University for any degree except where due acknowledgement has been made in the text.

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CERTIFICATION

I hereby certify that this dissertation was supervised in accordance with procedures laid down by the university.

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Dr. Kwasi Dartey-Baah

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Date

ACKNOWLEDGEMENT

First of all, I am extremely grateful to the Highest God who gave me strength and guided me through this course.

The success of this project work would not have been possible without the commitment, guidance, encouragement, motivation and hard work of Dr. James Baba Abugre, my father. I owe my gratitude.

I also owe my gratitude to my family for all the prayers and encouragement.

DEDICATION

To my parents, who have contributed greatly in my life and for their immense support in my education. It is further dedicated to my brother.

Table of Contents

DECLARATION	ii
CERTIFICATION	iii
ACKNOWLEDGEMENT	iv
DEDICATION	v
LIST OF TABLES	viii
LIST OF FIGURES	ix
ABSTRACT	x
CHAPTER ONE	1
INTRODUCTION	1
1.1 Background of the Study	1
1.2 Problem Statement.....	3
1.3 Research Objectives.....	5
1.4 Research Questions.....	5
1.5 Significance of the Study	6
1.6 Chapter Outline	6
CHAPTER TWO	8
LITERATURE REVIEW	8
2.1 Introduction.....	8
2.2 The Theory of Needs	8
2.2.1 Basic Needs Theory	9
2.3 The Concept Conflict	11
2.3.1 Conflict Management.....	12
2.3.2. Conflict Management Strategies	14
2.3.2.1 Competing.....	14
2.3.2.2 Accommodating	15
2.3.2.3 Avoiding.....	15
2.3.2.4 Collaborating	16
2.3.2.5 Compromising	16
2.3 Conventional Methods of Dispute Resolution.	17
2.4 Alternative Dispute Resolution	18
2.4.1 Negotiation.....	24
2.4.2 Mediation	28
2.4.3 Arbitration	35
2.5 Overview of Laws On Dispute Resolution Process in Ghana.....	36
2.5.1 The Labour Act.....	36
2.5.1 The Alternative Dispute Resolution Act.....	37
2.7 Conclusion	38
CHAPTER THREE	39
METHODOLOGY	39

3.1	Methodology	39
3.2.1	Interpretivism Phenomenology	41
3.3	Research Approach	42
3.3	Research Design	44
3.4	Population of Study and Procedure	45
3.5	Data Sources	46
3.6	Data Coding	47
Figure 1.0 Pie chart of organisations interviewed.		50
3.7	Conclusion	51
CHAPTER FOUR		52
RESULTS AND DISCUSSIONS		52
4.1.	Introduction	52
4. 3.	Results, Findings and Discussion.	52
4.2.1	Unionisation	53
4.2.2	Firm Age/ Size.....	56
4.2.3	Organisational Policies and Regulations	58
4.2.4	Management Support	59
4.2.5	Alternative Dispute Resolution.....	60
4.2.5.1	Mediation.....	61
4.3	Similarities and Divergence between Multinationals and Domestic Companies	63
4.3.1	Similarities	63
4.3.2	Differences.....	65
4.4:	Conclusion	66
CHAPTER FIVE		67
SUMMARY, CONCLUSION AND RECOMMENDATIONS		67
5.1	Introduction	67
5.2	Conclusion of Findings	67
5.3	Recommendations	71
5.4	Limitation of the study	72
REFERENCES		73
APPENDIX		82

LIST OF TABLES

Table 2.1: Individual and group-based workplace ADR procedures and methods commonly adopted	22
Table 3.1: characteristics of sampled organisations in Ghana and respondents.....	46
Table 4.1: Themes emerging from study.....	53
Table 4.2: divergence and convergence found in the study that exists between the groups.....	66

LIST OF FIGURES

Figure 1. Pie chart of organisations interviewed.....50

ABSTRACT

Conflict and conflict management is undoubtedly very critical in any setting; organisations are no exception. The type of conflict management in organisations plays an essential role when it comes to achieving missions and visions. ADR is gaining widespread attention. Research on adoption of ADR mechanisms is practically non-existent in Ghana. This research reviews the adoption of alternative dispute resolution (ADR) in Ghana and examines the incidence in firms of ADR practices addressing individual and group grievances and disputes. The paper reveals the limited diffusion to date of ADR practices and shows that the uptake of ADR is associated with the degree to which firms have adopted high-commitment HRM practices. It adopts the qualitative method to adequately examine the techniques adopted in organizations in terms of conflict management. Organizations that place importance on developing people-centred HRM policies are more likely to be disposed to adopting state-of-the-art conflict management practices designed to solve workplace problems quickly and fairly.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Conflict is a human factor that is pervasive in organisations. It is neither destructive nor constructive, however, it would depend on how it is managed or practiced in organisational settings. Thus, organisations ought to search for the means of managing conflict in such ways that conflicts can be useful for solving organisational problems, strengthening employee relationship and developing them. Accordingly, Teague, Roche and Hann (2012) assert that organisational conflict, how it shows itself and how it is managed plays an integral role in managing employment relationship. The reason is that, organisations are likely to be affected adversely when organisational disputes are not settled fairly and effectively. Industrial action may lead to lost days, high rates of absenteeism, and employer–employee relations could be strained if not resentful as a result of conflict. Disputes can obstruct organisations from creating adaptable mechanisms to thrive in the modern business setting (Bendersky, 2003). Nonetheless, organisations that adopt efficient conflict management measures are most often than not, prone to have workers who feel they have self-respect and justness at the workplace and are more devoted to the mission and vision of the organisation (Costantino & Sickles Merchant, 1996). It is quite uncertain what a good and effective conflict management system is made up of, although an effective conflict management system is likely to depend on a number of factors for instance, the type of the disputes in existence in the organisation, the rights and interests of the parties involved and perhaps most important of all, the quality of the conflict management processes (Bingham & Nabatchi 2003).

Conventional personnel management generally used an unemotional, calm and phlegmatic attitude to settle organisational conflict (Teague et al, 2012). One common practice was for Human Resource (HR) managers to play a problem-solving role inside the organisation by

interacting with trade unions to solve either small-scale problems or to prevent imminent large-scale industrial unrest (Legge, 1995). In this situation, the employee was never included in the process, thus his interest was not properly addressed. A distinct group of conflict as well as innovative approaches to resolving and even preventing conflict in the business setting. These distinct practices are usually termed alternative dispute resolution commonly known as ADR practices.

Whereas conventional approaches to conflict management frequently involved the exercise of power play between disputants, in which a party (usually the employer) tried to levy their willpower on the other (usually, the employee), or involved using measures to ascertain rights under collective agreements, company policy or the law, ADR practices seek to resolve conflict wherever possible on the basis of the parties seeking to discover jointly beneficial and acceptable means of furthering their 'interests' (Costantino & Sickles Merchant, 1996; Ury, Brett & Goldberg, 1993).

ADR practices are not entirely new and date back to the 1960s, but the topic started gaining popularity in the 1980s when HR personnel in big organisations hunted for means to curtail the considerable rise in courtroom litigation on organisational problems (Goldberg, Green & Sander 1985; Teague, 2006). ADR practices were generally perceived as stalling the litigation process or completely keeping organisational disputes out of the courts and enabling their resolution inside the organisation a concept which was readily embraced by organisations that constantly found themselves in litigation. In recent years, the relatively new notion of ADR has gained widespread attention in the organisational conflict management literature and even for some, it signifies the basis of a high quality conflict management system since it seeks to empower parties involved in a dispute to use mutually beneficial processes to settle their differences to their satisfaction (Cropanzano, Bowen & Gilliland, 2008). These practices may include but not limited to the operation of formal open-door procedures, where employees with

grievances seek access to any manager in search for a solution, skipping over their immediate manager or supervisor if they believe this is warranted by the nature of the grievance which concerns them (Ewing, 1989).

Also among the ADR group are 'hotline' or email-based 'speak-up' systems which can disclose information to employees, answer to problems or refer employees to other processes for resolving grievances in firms, without the stringent old methods (Lewin, 2011; Rowe & Baker 1984). Mediators; both external and internal, conciliators or other experts may also be used to determine disputes. Again, another common procedure linked with ADR is the adoption and use of review panels comprised of managers or employees' peers (to understand both sides) and the use of arbitrators in a binding arbitration process as a final stage in dispute resolution (Teague et al 2012). A standard approach more or less, is for HR managers to co-manage organisational procedures with line managers to handle disciplinary and grievance issues (Folger & Cropanzano 1998).

1.2 Problem Statement

Conflict in the workplace is unavoidable. Peaceful conflict resolution in the organisation is likely to sustain the mission and vision of the organisation. Constructively handling conflict produces considerate and researched decisions which move the organisation toward obtaining its objectives. However, dealing with conflict destructively, may result in bad decisions, low employee morale and a tense working environment that moves the organisation away from its objectives. Thus, Successful organisations would deal with conflict in a way that advances rather than destroy employee relationships and would always endeavour to leave all parties content with their outcomes.

A widely popular view in the western world, particularly in the United States of America (USA), is that institutions have adopted more effective conflict management techniques as part

of the new innovative measures designed to make the HR Management function more strategic. For the most part, these new and modern practices and procedures have been greatly shaped by brilliant thinking on the use of ADR to tackle institutional conflict (Colvin, Klaas & Mahony 2006). Using ADR-inspired practices to enhance conflict management systems therefore undoubtedly contributes to creating of high-performance HRM architectures inside organisations (Dunlop & Zack 1997).

Outside the USA, limited empirical work has been done on the degree to which HR managers are diffusing innovative conflict management practices (Teague et al, 2012). Thus, little is known about the extent to which organisations are experimenting with contemporary approaches to handling conflict at work or whether ground breaking conflict management practices are considered to be an important part of the strategic HRM toolbox used by HRM managers.

Outside the USA, limited empirical work has been done on the degree to which HR managers are diffusing innovative conflict management practices (Teague et al, 2012). Thus, little is known about the extent to which organisations are adapting new approaches to handling conflict at work or whether innovative conflict management practices are considered to be an important part of the strategic HRM toolbox used by HRM managers.

Extant literature suggests that some firms may be in a better position than others to introduce innovative conflict management policies, irrespective of how they approach the conduct of HRM (Teague et al, 2012). Multinational organisations have a substantial and important presence in the Ghanaian economy (Mahmoud, Hinson & Anning-Dorson, 2011). Many of these organizations, usually the USA in origin, operate in high value- added economic sectors, thus they strive to create pioneering high-commitment and high- performance in the workplace (Gunnigle, Lavelle, & McDonnell 2007). Therefore, it may well be that multinationals, particularly those from the USA, may have a greater propensity to diffuse innovative conflict

management policies as part of their overall strategy to create high-performance workplaces. There is less reason to posit that multinational companies from other countries will be amongst the ‘innovators’ in conflict management, given the strong association that can be found in the literature between US firms and pioneering initiatives in ADR.

This research seeks to find out what structures and policies exist in organisation to amiably resolve workplace disputes and the outcomes of these structures and policies. It also seeks to find out how well MNCs and domestic companies are adapting new techniques in place of the conventional methods. Additionally, this work seeks to add to knowledge the need for a wide range of critical changes in conflict management which is often tagged ‘one size fits all approach’ landscape of litigation in most organisations, and bring to bear new strategies of dispute resolution mechanisms for people management in Ghana.

1.3 Research Objectives

1. To assess the availability and practice of Alternative Dispute Resolution (ADR) as HRM practices for resolving conflict in Ghanaian organisations.
2. To assess the viability of the conventional conflict resolution mechanisms in Ghanaian organisations.
3. To ascertain the outcomes of ADR mechanisms in both domestic and MNCs in Ghana.
4. To find out the similarities and divergence of ADR mechanisms in domestic and MNCs in Ghana.

1.4 Research Questions

1. To what extent are ADR mechanisms practised in Ghanaian organisations?
2. What are some of the conventional conflict resolution mechanisms in Ghanaian organisations?

3. What are the outcomes of the ADR mechanisms over the conventional conflict resolutions as HRM practices in both domestic organisations and MNCs?
4. Are there similarities and differences in the practice of ADR mechanisms in domestic and MNCs in Ghana?

1.5 Significance of the Study

The significance of the research is for research, practice and policy. Literature on the conflict management in Ghanaian companies especially with regards to ADR is almost non-existent. The research is thus a pioneering one in Ghana. Some organisations do not have an effective conflict management system while others do not explore the wide range of methods or approaches available. This study therefore, can provide some useful guidelines to adopting and integrating policies in order to make HRM high functioning as well as develop innovative methods of resolving workplace conflict. The study will further serve as a useful purpose in developing policies and regulations and even legislation that protect employers and employees interest.

1.6 Chapter Outline

This study is made up of five (5) chapters. The first chapter is the introduction to the research. It contains the problem statement. This is where the problem is clearly defined and stated. It also contains the research objectives, questions the research seeks to answer and significance of the study. Chapter two deals with the literature available. The concept of conflict is widely explored and various conflict management systems are explored as well. Conventional and ADR practices are well covered from the literature available. The legal framework governing labour unions and employees as well as ADR have been examined. The third chapter zeroes in on the research method used. It comprises of the population, sampling technique, data sources

and data coding. Chapter four focuses on the findings and analysis of the data collected. It includes an in-depth discussion of the data collected. The final chapter is on the conclusions drawn from the research as a whole especially with the findings to determine whether the objectives of the study have been met and whether research questions have been answered. This chapter also discusses limitations of the study.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

The main purpose of this chapter is to discuss the literature that has informed the focus of this work. The concept of conflict is a multidimensional phenomenon particularly when it involves individuals from different cultural backgrounds embroiled in different ways of seeing or perceiving things within an organisation. Hence, this chapter reviews pertinent literature on conflict and conflict management by focussing on the theory that underpins this thesis. In this chapter, the theory of basic needs (Burton, 1990) is used to anchor this work. The reason is that conflict arises as a result of competing elements when the basic needs of individuals are neglected. Therefore, this chapter will first review the theory of basic needs and how it underpins the concept of conflict and conflict management. Secondly, it will try to explain the concept of conflict, and discuss various literature on the dimensions and management of conflict, and subsequently, a conclusion of the chapter.

2.2 The Theory of Needs

HRM is a multidisciplinary organisational function that draws theories and thoughts from numerous fields which include management, psychology, sociology and economics (Storey, 1992). To survive and thrive, people need certain essentials, these are referred to as human needs or basic human needs. Human needs theorists contend that disputes and violent conflicts are the source of unmet human desires. Violence is resorted to when individuals or groups do not see any other way to meet their needs. Accordingly, Rosenberg (2003) states that violence is a sad expression of unmet human needs, implying that all actions undertaken by people are efforts to satisfy their desires.

2.2.1 Basic Needs Theory

The basic theory of needs (Burton, 1990) discusses the dynamic relationship between the basic human needs and contemporary social and political conflicts. In his work on protracted social conflicts, Burton (1997) argues that when the fundamental human needs of people are neglected, it leads individuals or groups to use violence in order to claim their rights and satisfy their needs. In what is really a compatibility of human needs, Burton (1997) argues that education and culture have shown that groups or parties manipulate issues that can and dehumanise the other parties.

Hence, the concept of basic human needs offers a method of conflict analysis and resolution in a defensible theory of the person. Burton (1997) further adds that needs and values are not for trading. Therefore, understanding the necessities of individuals helps in understanding the root of conflicts, designing conflict resolution mechanisms, and establishing conflict analysis and resolution as an autonomous discipline. He opines that the most frequent causes of conflict arise from the need for identity, recognition, security and other such human and or societal values, and as a result, assisted conflict resolution must aim at determining such human needs and values and then aiding parties to deduce what alteration mechanisms, institutions and policies are required to support the realisation of these needs.

The important distinction between interests that are negotiable, on the one hand, and values and needs that are not, on the other, is a contemporary one. It is an insight gotten principally from assisted conflict resolution practices. These procedures seek to be methodical and to uncover the underlying bases of conflict, as opposed to simply negotiating from set positions of relative power. Burton's human needs theory, what he has more recently called "collaborative problem-solving conflict resolution" (Burton, 1997), draws on the humanistic psychology of Maslow (Burton, 1988) the sociology of Sites (Sites, 1973) and Box,(Box 1971) and the socio-biology of Wilson (1980) to frame a theory of conflict and conflict resolution

based on the premise that people seek to fulfil a set of universal needs which, when dissatisfied, result in “deep-rooted and protracted conflict.”

A few adaptations of human needs theory exist. Nonetheless, what runs common to them all is the supposition of certain general, universal needs established in the organic and biological state of man. The methods for fulfilling these needs are socially and culturally adapted and determined. But needs themselves are innate and form a part of the biologically transmitted framework within which personality develops. If these needs are not fulfilled or fulfilled in an unacceptable way individual development is distorted and mutilated and the personality becomes crippled.

An essential cause of protracted or intractable conflict is peoples’ relentless drive to meet their unmet needs on the individual, group, and societal level. Human needs theorists offer a new dimension to conflict theory and their approach provides an essential conceptual tool that connects and addresses human needs on all levels. Furthermore, it recognizes the existence of negotiable and non-negotiable issues (Coate & Rosati, 2010). That is, needs theorists understand that needs, unlike interests, cannot be traded, suppressed, or bargained (Carroll, Rosati & Coate, 2014). In this way, the human needs approach presents a case for moving from conventional models that do not take into consideration non-negotiable issues. These include interest-based negotiation models that view disputes in terms of win-win or other consensus-based solutions, and conventional power models that construct conflict and conflict management in terms of factual and zero-sum perspectives (Carroll et al, 2014).

The human needs approach, on the other hand, backs collaborative and multifaceted problem-solving models and related techniques, such as problem-solving workshops or an analytical problem-solving process. These models take into account the complexity of human life and the insistent nature of human needs (Carroll et al, 2014). Problem-solving approaches also analyse the fundamental sources of conflict while maintaining a focus on fulfilling peoples' unmet

needs. In addition, they involve the interested parties in finding and developing acceptable ways to meet the needs of all concerned. Therefore, conflict is very much associated with the needs of people as conflicts and disputes occur when needs are not met to the satisfaction of parties involved.

2.3 The Concept Conflict

In recent times, businesses are run in an unstable environment where organisations are constantly looking for ways to advance their performance and increase competitive advantage (Dodd, 2003). Conflict cannot be done away with in organisations because goals of different stakeholders differ and as such, sometimes conflict (Jones et al 2003).

Conflict is described as “the interaction of independent people who perceive incompatibility and the possibility of interference from others as a result of this incompatibility” (Folger, Scott, Poole, & Stutman, 2005). Hann and Abigale (2007), define conflict as a challenging situation arising from difference in “perceptions and desired outcomes, interdependence, which adversely affect the bond between individuals. Huczynski and Buchanan (2007) also describe conflict as a procedure that starts when one party perceives that another party has adversely affected, or is about to adversely affect, something the other party cares about. Therefore, conflict can result from perceived notions and ideas as well as actual experiences.

Generally, conflict is perceived as dysfunctional since it generates a defiance to change and establishes chaos in the organisation. However, it can also impact positively in the sense that, a problem can be presented in diverse views or standpoints because of the conflict. Also, when it inspires creativity, novel perspectives on old situations, the explanation of points of view, and the expansion of human abilities to deal with interpersonal differences, it would be said to be positive. The word "conflict" usually has simply the inference of negative for several people; so much so that they think primarily in terms of suppression, giving slight or no consideration to its more constructive side. Hotepo, Asokere, Abdul-Azeez and Ajemunigbohun (2010) lay

emphasis on this by affirming that it is likely that several, if not most, organizations require more conflict and not less. They moreover asserted that, the lack of conflict could imply authoritarianism, consistency, inactivity, and intellectual fixity; the occurrence of conflict may be suggestive of democracy, diversity, development, and self-actualization.

Blyton and Turnbull (2004) recognize both individual and collective effects of industrial conflict. The consequences of collective conflict are diverse and mostly more discernable. At peak, they can end in the withdrawal of labour in the form of the strike. Less extreme, but arguably no less detrimental to the organisation, is a slow down in productivity.

Companies and organizations utilize different methods to resolve these conflicts to prevent them from further escalating. Conflict resolution approaches, therefore, are required to deal with an extensive variety of circumstances, covering conflicts involving individuals and groups about supposed actions, opinions and viewpoints, where patterns of conflict may be concealed or open, and enacted through passive or open aggression.

2.3.1 Conflict Management

Rahim (2002) states that, conflict management comprises creating effective policies to diminish the dysfunctions of conflict and improve constructive functions in order to boost learning and efficiency of an organisation.

The theory of conflict management states that a good and healthy conflict management system should exist in any organisation (Ford, 2007). The conflict management systems should be incorporated within the system of the organisation and the assimilation should be at higher level of the organisational hierarchy instead of being at the HR level. Conflict management is a human sub-system which is achieved through a typical development process. The process begins with assessment and inquiry, continues with addressing the design, then implementing

and finally evaluating the designs effectiveness (Ford 2007). It shows that organisations must have a system in place to decide conflicts.

Hence, conflict management is thus a process by which organisations and people manage disputes or differences in order to find a middle ground alternative to increase determination, work towards harmony and offer true commitment to management. Since conflict can not be done away with in organisations, its management decides whether it will generate progressive or destructive effect on the organisational performance (Uchendu, Anijaobi & Odigwe, 2013). Vigil and King (2000) noted that using the integrative method of handling dispute is likely to produce better result and advanced commitment in individuals than using non-integrative conflict management. The integrative approach widens the understanding of the conflict problem and expands resolution. Collective bargaining strategy has been recommended as the method for overseeing unionised conflict in organisations. The integrative method is globally acclaimed as the effective instrument by which employees and employers settle disputes emerging from employment contracts (Fajana & Shadare, 2012). In practice, this united approach of managing conflict, includes negotiation among union and management in a process of meeting demands, deliberating, presenting counter requests, bluffing and sometimes threatening all in a bid to achieve collective agreement.

Thomas (1976), additionally recommend a few techniques for handling conflicts. These are avoidance, accommodation, competition, compromise and collaboration. The avoidance strategy called conflict avoidance seeks to avoid any form of confrontation and is not a problem solving mechanism rather tries to push the problem aside, usually resulting in bad consequences. The accommodation method believes that no amount of sacrifice is too much to allow peace to reign. It is a soothing technique which includes submission and appeasement. The competition technique encompasses the survival of the fittest and win-lose approach, without taking the other party into consideration. In the compromise strategy, parties to the

conflict are willing to give up something with a to settle the conflictual problem. The last approach is collaboration which is a win-win approach whereby parties to a conflict are prepared, willing and ready to satisfy each other demands fully. With the exception of the collaboration strategy which is reflected in behaviours that are both supportive and assertive, all other approaches depend significantly on the structure of the organization, since they give only a transient solution to conflict situations.

2.3.2. Conflict Management Strategies

Traditionally, conflict management strategies have extended from a crucial face-negotiation rule by Ting-Toomey (1988) and competing hypothesis among individuals to controlled intergroup conflict by Cohen and Ledford (1994), to the regularly-cited Thomas and Killman (1974) 5 model procedure. Thomas and Kilmann characterised five models characterized for responding to conflict and which may be used by supervisors in decision making procedure (Mujtaba & McCartney, 2010):

2.3.2.1 Competing.

This involves a person who at the expense and to the detriment of the other person, pursues his/her own issues and interest (Kilmann, 2007). This mode can be characterized as driving and the utilisation of an appropriate authority, strength or quality one has to address and meet his/her needs and wants. A party ought to act in a very assertive manner without any collaboration which may be essential for emergency or time sensitive situations. An ethical predicament is prone to occurring in this sort of conflict approach as one of the parties could find it difficult to act in a way that helps and facilitates the organisation or others because it goes against his or her principles, ideas and interests (Jones & George, 2014). Competition functions as a zero-sum game, in which one party wins and other party loses. This competitive

approach works greatest in a restricted number of disagreements, such as emergency circumstances. Generally, organisations profit from holding the competitive strategy as a standby for emergency situations.

2.3.2.2 Accommodating

This is deserting one persons' interests in favour of another. This sort of conflict resolving approach shows up when parties coordinate exceptionally well and one of the parties is an expert in the particular situation, consequently is capable of providing a healthier solution even if it works against somebody else's goals and desired outcomes as long as it is for the greater good. The accommodating approach basically involves offering the opposing party what it wants. The usage of accommodation regularly happens when one side desires to keep the peace or perceives the issue as minor. Employees who use accommodation as a principal conflict management approach, however, may maintain track and develop resentment and or bitterness. Repairing relationships is critical, thus it is important to take the other party's claims into consideration.

2.3.2.3 Avoiding

Occurs when a person does not pursue his/her own concerns nor those of the other parties (Kilmann, 2007). This sort of situation happens when one of the parties do not have any desire to take an interest or partake in the conflict and therefore will pay no attention to it. It might occur when one of the parties has no enthusiasm for the conflict, does not wish to win the argument or is sincerely reluctant to make any strain, and trusting that the circumstance would pass by. The avoidance approach seeks to put off conflict indefinitely. By postponing or overlooking the conflict completely, hoping the problem magically resolves itself with no confrontation. When conflict is actively and intentionally avoided, it usually shows or portrays

low esteem of the person actively avoiding it or the person holds a low power position.

2.3.2.4 Collaborating

It implies operating collectively to find a solution that works to the satisfaction of all involved. The English definition of collaboration in some dictionaries can be summed up as cooperation with the other party to express and hear concerns in the effort to find a mutually fitting outcome. It is also called a “win-win” scenario which is conceivable when one takes into account the wishes and desires of all parties, widens the frames of usual solutions and analyses all of the ideas to create absolutely new and fresh outcome. Collaboration works by incorporating thoughts set out by various individuals. The purpose is to locate an inventive solution satisfactory to everybody. Collaboration, however valuable, requires a huge time responsibility. For instance, an entrepreneur should work cooperatively with the manager to set up arrangements, yet shared basic leadership in regards to office.

2.3.2.5 Compromising

This resolves the conflict with partial satisfaction of both parties. Sadly, it resolves the issue only temporarily and it is only a matter of time before the dispute rears its head. The compromising method ordinarily calls for the two sides of a contention to surrender components of their situation with a specific end goal to set up an adequate, if not pleasing, solution. This procedure prevails frequently in clashes where the parties hold approximately equal power and each stands to lose something important.

These conflict managing procedures can likewise be ordered into three general categories: integration or working with individuals, distributive or conflicting with individuals, and avoidance or working far from other individuals (Cupach & Canary, 1997). Definitive objectives of any conflict management system are to provide a positive and conflict free

atmosphere at the working environment, locate a better way to deal with issues and giving long life to the organisation.

2.3 Conventional Methods of Dispute Resolution.

The presence of conflict is widespread, old and indissoluble from our society and hence, organisations. Managing disputes in the workplace has generally been the obligation of directors and managers who took a tyrant or authoritarian perspective of conflict and how to manage it. Organisations that address disputes and conflicts in this way regularly neglect to perceive that conflict natural and inherent in organisational life and has positive features as well. Top executives delegated responsibility for handling these conflicts to first-line supervisors, even though they were rarely, if ever, trained to deal with workplace disputes. It has been pointed out by Teague (2011) that an organisations' policies on conflict management depend to a large extent on top-management's positions on conflict. Conventional supervisors often see the determination of conflict as a winner takes all game. In this way they trust the determination of a conflict as a rule that delivers a winner and a loser. These ideologies vary from variable present day managers who can see in many cases a probability of the two parties emerging triumphant or have the mentality that losing a dispute isn't as vital as accomplishing a solution that serves the organisations best interest. Traditional personnel managers trusted that conflict ought to be prevented if possible, however in the event that conflicts occur, managing them implies winning. managers attached great value to winning and disliked compromise. In such manner they are not at all like current HR managers for whom winning or losing a conflict isn't as vital as accomplishing an answer that serves the organisations best advantages. Personnel managers likewise have a tendency to object to relatively newer conflict management methods, which is the reason they are viewed as "traditional" in standpoint. They see third party neutrals as out-siders who undercut their power, and they have little respect for

the expertise or judgment of ADR neutrals. (Teague & Roche, 2011). Most prevalent of these conventional methods are categorized under external which involves unions and direct HRM practices. These external practices include but are not limited to direct collective bargaining which focuses on, industry co-ordination, wages, working conditions, joint consultation, grievance procedures, legislation, unfair labour practices, recourse to civil courts for individual disputes whereas direct HRM practices include suggestion schemes, team meetings to quality circles, supervisor-employee meetings, laid down codes of practice, unwritten understandings, employee and employer expectations

2.4 Alternative Dispute Resolution

The evolution and development of alternative dispute resolution (ADR) has driven quite a number and still growing number of employers to receive and apply such methods for tending to dispute in the working environment (Bingham & Nabatchi, 2003). Starting in the late 1970s, a developing number of organisations switched to ADR approaches with an end goal to avert the different expenses and costs related with workplace disputes. The rise of these alternative techniques for managing disputes have had expansive implications for organisations and their employees (Roche, Teague, & Colvin 2014; Avgar 2016) One such result is that organisations embracing ADR approaches have, fundamentally, abridged their dependence on conventional ways to deal with conflict resolution that depend principally on managements basic leadership and decision making authority and regularly on litigation, replacing them with practices that are received and organised basically by management but which may give workers, supervisors, and different stakeholders with a more greater role in taking part in these organisationally promulgated instruments.

The conflict resolution scene in western firms has changed drastically over the past four decades (Lipsky, David, Avgar & Lamare 2015; Colvin, Klaas & Mahoney, 2006). This has

been alluded to as the "ADR revolution" by some researchers (Lipsky et al 2015; American Arbitration Association 2008). Over this period observational evidence has shown that a developing number of organisations have moved far from conventional methods of settling workplace conflicts and have established the utilization of mediation, arbitration and other conflict resolution strategies. Numerous researchers have maintained that organisations have received these procedures, in vast part, to address conflicts without the need to fall back on litigation (Colvin et al. 2006; Lipsky et al. 2014, 2015). At the core of this change has been the presumption, made by researchers and professionals alike, that organisations stand to benefit by abandoning conflict approaches that depend heavily on either administrative or managerial authority or litigation (Bingham et al. 2009; Avgar 2016).

ADR practices are typically generated and regulated by the management of an organisation, as opposed to more conventional conflict determination methods that are either created jointly by managers and union representatives under collective bargaining agreements or imposed by government or laws. However, in spite of the presence of proof with respect to the utilization of ADR, empirical research analysing the vital underpinnings of this organisational transformation remains meagre. Various critical questions remain underexplored: For instance, are certain organisational strategies and motivations associated with specific types of ADR practices? To what extent is ADR usage influenced by the level of organisational commitment to these practices? Tackling these questions require further empirical evidence concerning the factors that motivate organisations to change, often remarkably, the ways in which they manage and settle workplace conflict.

ADR approaches seek to include the disputing parties in the determination of their dispute, in this way expanding the likelihood that every one of them will be more content with the results than in circumstances in which a manager or a trial judge imposes a decision. ADR is normally characterized as a scope of procedures that fill in as alternatives to courtroom litigation.

However, overtime, the motive of ADR practices widened to encompass the resolution of workplace disputes using consensual means and to the satisfaction of all involved parties, and the scope of ADR broadened to include both unionised and non unionised organisations, and both individual employee grievances and group-based or collective problems and disputes (Lipsky & Avgar 2008). This broader definition has implications for how both individual and group-based workplace conflicts are managed. As a result, ADR-inspired innovative conflict management practices can be considered as covering both individual and group-based problems in unionised and non-unionised organisations (Colvin et al. 2006).

Working environments are breeding grounds for conflict due to differing interests of different individuals, including those emerging from harassment, provocation, bias and personality clashes (between employers, employees and their managers) (Ebe, Iyiola & Osibanjo 2014). The outcome is usually execution issues, encroachments of organisational rules or the requirement for discipline or termination. Furthermore, these conflicts escalate into violence sometimes. This increase in the level and effect of workplace conflict illustrates the importance of dispute resolution strategies to resolve problems, before they lead to litigation. As indicated by Mahony and Klaas (2008) workplace dispute resolution processes vary essentially in structure and design, yet little is known about how these differences affect employees. Managers can assess the viability of the leading dispute resolution procedures to provide employees with voice and workplace justice and then consider how outcomes may differ. ADR can enhance workplace justice; however, justice can be denied when employers institute mandatory systems and require employees waive their right to pursue claims through the courts. Much of the variation in outcomes between these procedures is attributable to the decision-makers who, across these systems, emphasize different factors when evaluating a case.

In recent times, the acronym ADR (alternative dispute resolution) and the phrase "conflict

resolution systems design" have been receiving a lot of attention. Simply put, ADR utilizes quicker, more user-friendly techniques of dispute settlement, rather than the conventional, adversarial approaches (such as unilateral decision making or litigation). Systems Design alludes to the proactive improvement, in consultation with employees, of customised processes whether formal or informal to address workplace conflict.

For the last two decades the perception of conflict has changed dramatically. It turned from authoritative approach with lack of knowledge towards other parties to cultural awareness, value creation and skills in advocacy, listening and negotiation. Most often than not, this is viewed as being realized by an 'interest-based' rather than an 'adversarial' approach to bargaining negotiations. Under adversarial bargaining, management and trade unions utilize a variety of methods to maximize their returns at the expense of one another (Cutcher-Gershenfeld, 2003). The presumption is that the interests of employers and employees are competing, which encourages a head-to-head instrumental bargaining contest. Interest-based bargaining, in contrast, encourages a more cooperative approach to negotiations as agreements are sought that incorporate the interests of all parties (Cutcher-Gershenfeld 2003).

Table 2.1 below lists the types of ADR procedures and methods commonly adopted to tackle individual as well as group-based workplace conflicts and contrasts these with what have increasingly come to be viewed as more conventional practices. In practice, organizations are probably not going to have every one of these practices, as they may tend rather to choose a more pick-and-blend approach, choosing the practices that best fit their circumstances (Dunlop & Zack 1997). In relation to workplace conflict involving individual employees, ADR

Nature of disputes	conventional	ADR
Collective disputes	a. multi-step disputes and grievances procedures, with provision for conciliation and adjudication at Labour Court following an impasse	a. aided negotiation/mediation, interest based bargaining with facilitation b. Arbitration c. Thorough communication
Individual disputes	a. multi-step grievance and disciplinary procedures with provisions for outside arbitration following an impasse	a. open-door policies b. speak-up and related systems c. external or outside experts d. review panels e. arbitration

Source: Dunlop & Zack, 1997

In relation to workplace conflict involving individual employees, ADR practices seek to realize a number of objectives at the same time (Budd & Colvin 2008). According to Budd and Colvin (2008), one is that conflict should be solved as near as possible to its origins. Another is that individuals should have easy access to a variety of practices and procedures and have confidence that their problems will be addressed confidentially. A third is that ADR practices ought to embody the principles of substantive and procedural justice. Substantive justice refers to the degree to which the results of the conflict resolution process is proportionate to the nature of the problem that is being addressed. Procedural justice is about conflict management practices being pre-fixed and pre-announced as well as being carried out consistently (Cropanzano, Bowen, & Gilliland, 2008). Conflict management practices that possess these properties are not only likely to solve problems quickly and fairly, but also enjoy the confidence of managers and employees.

In unionized firms, the objective is often to broaden an efficient bargaining system in the agency so that trade unions and management reach agreements quick and with the minimum of hassle (Barrett & O’Dowd 2005). Most often than not, this is viewed as being acknowledged by an ‘interest-based’ rather than an ‘adversarial’ approach to bargaining negotiations. Another approach used by organizations, whether unionized or non-union, to solve group-based conflict

involves introducing brainstorming sessions and enriching information and communication systems.

The purpose of these initiatives is to provide employees with an effective voice so that workplace problems can be deliberated in a manner that builds up cooperation and unity of purpose between employees and management. As a result, such innovations are more likely to occur in unionized organizations where the absence of cooperative interactions between management and unions can be highly disruptive to organizational performance. A further approach seeks to resolve group-based problems by using external experts. In some circumstances, external experts play the positive role of eliciting information from employees about particular problems that they may not impart to managers (Marchington 2008). Additionally, external experts may provide worthwhile advice to managers (and unions) on how a group-based problem could be resolved: on occasion they may have to perform a facilitating or mediating role to undo a deadlock between managers and employees in negotiations (Lewicki, Weiss, & Lewin 1992).

Thus, ADR-inspired innovative approaches to conflict management envisage a qualitatively different set of practices or mechanisms for managing workplace conflict that represent alternatives to traditional grievances and disputes procedures designed on the basis of classical adversarial precepts and assumptions (Folger & Cropanzano 1998). Just as the move to more strategic and exacting models of HRM to elicit high performance or high commitment has led to new policies on matters such as pay, team working, employee voice and engagement, so too has it triggered innovative practices to address workplace problems and grievances. This is an interesting argument that needs careful empirical investigation, particularly to find out whether this trend to innovative workplace conflict management, which appears to be American in provenance, is taking root more generally across countries.

2.4.1 Negotiation

Negotiation is a discussion between two (or more) parties in order to solve (perceived) differences (Pruitt & Carnevale, 1993). Those differences can be rooted in interests (scarce resources), intellectual problems, or evaluative problems (Coombs, 1987; Laughlin & Ellis, 1986; Levine & Thompson, 1996). A negotiation about interests arises when interdependent individuals or groups hold conflicting positions that are rooted in conflicting personal interests such as the attainment of money, time, personal benefits, or other scarce resources. Different variants of negotiation have evolved overtime and the most widespread and widely accepted is interest based negotiation.

2.4.1.1 Interest Based Negotiation

Integrative bargaining was the first terminology used to describe a method stimulating a cooperative negotiation approach where the interests of the parties are common or complementary (Walton, Cutcher-Gershenfeld & McKersie, 1994). It becomes relatively simple, using a classic problem-solving process as proposed by Simon (1995) to "integrate" the interests of the parties. Walton et al (1991) also found that integrative negotiation is not a global negotiation approach but rather a sub-process inherent to the overall process of negotiation, used when negotiating issues whose interests are common and convergent (training, health and safety, reorganization of work schedules). It was in 1981 that the term "principled negotiation" appeared in academic and popular literature from the book by Fisher and Ury (1981). It was retained in the revised edition that was published 10 years later (1991). In collective bargaining, it is imperative to the negotiation process that, the high degree of rationality pertaining to the strategy and tactics to be used to prepare claims, to present arguments and information, and to make the necessary compromises to get to an agreement are of benefit to all involved (Barret, 2015). Increasingly synonyms are used which the most

commonly used is “interest-based bargaining” (IBB) (Barret, 2015). IBB as presented by Fisher and Ury (1981) is based on four pillars; Focus on interests and not on positions; Imagine a wide range of solutions before making a decision. Invent options for mutual gain, Resolve disputes and choose solutions based on objective criteria to which everyone agrees; Distinctly address people issues and substantive issues.

Although the four pillars are not questioned, some of the assumptions or techniques proposed by Fisher and Ury are problematic when applied to labour relations (McCarthy, 1985).

2.4.1.2 Focus on Interests and Not on Positions

This is probably the most important pillar of IBB (Fisher & Ury, 1981). If the needs, concerns, fears, desires or patterns are expressed directly, it is likely that they will be easier to meet than if their expression is reflected in the form of a position. Interests are the basic things that people need to protect or upon which they need to obtain gain (it is a WHY question). Interests define the problem. Issues are the context within which negotiation discussions take place (it is a WHAT question). Positions are the actual methods by which issues are to be addressed and interests satisfied.

The expression of an interest instead of a position directly addresses to the satisfaction, the legitimate needs of each party. In addition, negotiating from positions leads inevitably to negotiation, manipulation of information and the characteristic bluff of traditional negotiation. Opposing positions often hide interests that can be reconciled. Negotiation based on interests is made using the most open communication possible whereby each party presents its interests in relation to one or more specific problems. Thus, during a first negotiation meeting, each party notifies the other of the problems that need to be discussed and the interests underlying these problems. The legitimacy of the interests of one party may not be challenged by the other party. It becomes the responsibility of both parties to find solutions that will meet their

respective interests. Note that there exist convergent interests, divergent interests and different interests. They give negotiators degrees of difficulty obviously very different in terms of conflict resolution (Fisher & Ury, 1981). At the very least, the underlying assumptions at this stage of the process makes clear the hierarchy of need/interest/solution and that on many points it conflicts with the traditional negotiation process that rather induces a sequence of solution/interest/need.

2.4.1.3 Imagine a Wide Range of Solutions, Explore Solutions of Mutual Benefit

These are the interests that are shared and mutually acceptable to both parties that will mainly lead to the identification of solutions satisfactory for both sides and others and will eventually allow the resolution of the problem or problems . This is the crucial step of negotiation that will lead to an agreement (Fisher & Ury, 1981). Often, the parties involved in IBB move quickly at this stage. They tend to think that there is only one possible solution, it being different for each party. Once this solution is identified, it becomes the privileged position and negotiators fall back into the traditional negotiation process, each party trying to convince the other that it is the best solution .

To avoid this, Fisher and Ury (1981) propose at this stage to adopt a problem-solving approach. Parties (together) can make an inventory of possible solutions. At this phase, the only criterion is that the proposed solution takes into account the interests of both parts. Additionally, once set, the solution belongs to the group and must be separated from the person who proposed it. Furthermore, it is important that all attendees be actively involved in the process (Fisher & Ury, 1981). Consequently, and contrary to common practice in traditional bargaining, public speaking should not be limited to the spokesmen of the parties but rather create multiple and intersecting channels of communication where all are called to intervene heavily. Regardless of whether many of these solutions have significant deficiencies, the

objective of this first phase is to identify the largest number of solutions possible . Thereafter, the most promising solutions are emphasized, that is to say those that allow the best way to satisfy the interests of the parties; and in many cases they deepen, they are transformed, they are combined and then the best are chosen. It is during this second phase that negotiators become critics; seeking to test the solutions. In many ways, the success of this stage follows from the ability of people to participate and fully “play the brainstorm game”. A third party speaker (trainer) is certainly the most useful at this time.

2.4.1.4 Resolving Disputes and Choosing Solutions Based on Objective Criteria

The first criterion used to assess the accuracy of the solutions is the degree of satisfaction of the parties' interests. Thus, the solution should satisfy both employer interests and union interests identified in the above. It is possible that for some issues it is difficult to find a solution that fully meets all expressed interests (Fisher & Ury, 1981). This is often the case for issues such as wages, subcontracting or the number of days off. One should not give up too quickly on this conflict of interests because it is sometimes possible to reconcile interests that, at first sight, seem irreconcilable .

In traditional bargaining, when it is not possible to reach an agreement on preferred solutions, one of the parties will attempt to impose its solution on another by using its balance of power. In IBB, the parties attempt to disregard this power relationship and choose instead to rely on objective criteria mutually recognized, which will be used to decide. An objective criterion can be, among others, something existing elsewhere, the opinion of an expert or a reference point of a neutral nature and perceived as such by the parties. In cases where the parties fail to find such criteria with respect to a particular issue, they may refer the matter to a third party.

2.4.2 Mediation

Mediation entails the use of an impartial third party (i.e., the mediator) to stand in as a facilitator in discussions. Unlike an arbitrator, a mediator does not determine the outcome of the discussion, however courses the negotiations and helps the parties reach their a mutually beneficial agreement. In an average mediation, the parties for my part take part in joint sessions and in personal caucuses that the mediator holds with each party and its attorney.

Liebmann (2000) advances a method through which an unbiased third person enables two (or more) disputants figure out a way to resolve their conflict. The disputants, now not the mediators, decide the terms of any settlement reached. Mediation lays emphasis on future rather than the past.

The choice as to which sort of ADR method may be utilized may be based on the sort of dispute, the stage of the dispute and, perhaps more importantly, what sort of resolution is being sought (Huang, 2006). In comparison to arbitration, in mediation the burden or dare I say opportunity is on the disputants to provide and agree a suitable outcome. Mediation may be used at any point in the dispute, but is highly likely to produce a better result if used in the initial stage. (Gibbons, 2007).

Unlike settlement guidelines, mediation historically includes an impartial third person to facilitate the process. It can be noted that some organisations are educating managers and personnel in mediation to serve as internal mediators and facilitators (Lipsky et al., 2003, ADR Act, 2010). Internal mediators are likely to provide benefits for peer-to-peer disputes, however, their capacity to efficiently resolve more “charged or challenging” disputes, example, termination or discipline is uncertain. Despite the fact that they are not able to impose a binding decision on the parties involved, mediators engage in win-win bargaining techniques in a bid to obtain a mutually acceptable solution (McDermott & Berkeley, 1996). As such, meditation is much less adversarial than other third person boards which include arbitration and is often a

pre arbitration step. Furthermore, mediation is being adopted increasingly by establishments. The increasing popularity of mediation largely stems from the growing trend among worker claimants to pursue litigation and the robust desire among employers to keep clear from litigation (Feuille, 1999). Mediation offers higher flexibility whilst providing beneficial agreement. more importantly, the privacy of the proceedings contradicts the concern for precedent-putting settlements; thus, the parties are loose to pursue alternatives that best fit the conditions of each case (Cooper et al., 2005).

2.4.2.1 Evaluative Mediation; Riskin (1994) posits that “the mediator who evaluates assumes that the participants want and need them to provide some guidance as to the appropriate grounds for settlement - based on law, industry practice or technology - and is qualified to give such guidance by virtue of training, experience, and objectivity.” Thus, an evaluative mediator helps the parties to understand the strengths and weakness of their positions and the likely outcome of litigation or whatever other process they will use if they fail to reach a resolution in mediation. (Riskin, 1994). According to Riskin, mediator techniques that are associated with evaluative mediation include: assessing the strengths and weaknesses of each side’s case; predicting outcomes of court or other processes; proposing position-based compromise agreements; urging or pushing the parties to settle or to accept a particular settlement proposal or range; educating herself about the underlying interests; predicting the impact of not settling; and developing and offering proposals. Riskin notes that much of this evaluative conduct occurs in private caucus.

Lowry (2000) notes that while there is a lack of consensus as to what constitutes evaluative versus facilitative conduct, it is accepted that evaluation includes “a range of activities such as expressing an opinion about a party’s case, recommending a resolution, or predicting the ultimate outcome if the case were to be resolved in another forum.”

Lande (1997) argues that it is no longer possible to define mediation in a way that excludes evaluative conduct. Lande (1997) further notes that a more useful framework to view these issues is that of the quality of participant consent. Thus, mediator expression of an opinion, which may be classified as evaluative, is not as important as understanding how this behaviour is done and its effect on the quality of the party's consent.

Waldman (1998), an advocate of "therapeutic mediation," notes that many mediators and theorists support evaluative mediation because they believe that it generates fairer and more equitable agreements, thereby being more therapeutic for society generally, since mediation encourages party autonomy, this results in agreements that are needs-based.

2.4.2.2 Facilitative Mediation; Bush and Folger (1994) advocate a form of facilitative mediation also known as transformative mediation. They see the mediator as a process person who does not contribute any information to the process other than agenda structuring. (Bush & Folger, 1994). Transformative mediation takes a "social/communicative view of conflict. (Noce, Bush & Folger, 2002) Thus, transformative mediation posits that the transformation of the negative interaction between parties in conflict into a positive relationship based on mutual empowerment and recognition is what matters most to the parties, even more than the particular terms of a settlement

Mediator conduct in this style includes facilitating "recognition" by each party of the other party's vantage point (Bush & Folger, 1994) Such conduct includes paraphrasing and reframing to encourage complementary validation.

Bush and Folger (1994) oppose any evaluative conduct, believing that evaluative mediation undermines such validation and also inhibits creativity in the mediation problem-solving process. Bush and other facilitative advocates such as Kovach and Love (1996), believe that evaluation necessarily involves mediator coercion and pressure. Kovach and Love (1996) are

proponents of facilitative mediation. They start by criticizing evaluative mediation, arguing that it is not mediation but rather some other type of dispute resolution process. They argue that mediators should encourage parties to evaluate suggested options and alternatives and the viability of potential agreements. Mediators should also encourage parties to get outside advice, opinions, and evaluations from appropriate experts. But mediators should not do these things themselves.

Kovach and Love (1996) appear to depart from Folger and Bush's (1994) description of facilitative mediation as agenda structuring that avoids any mediator coercion or pressure. Kovach and Love support the use of some evaluative behaviour in mediation. They state that so long as the mediator does not take an actual position, as would a judge, arbitrator, or neutral expert, this conduct is reconcilable in a pure facilitative mediation model for example, they claim that the following activities, while admittedly evaluative, are appropriate as "essential parts of a mediator's facilitative role." These activities include (Stempel, Kovach & Love, 1997) reframing; structuring of the bargaining agenda; probing of assessments and positions; challenging proposals; urging parties to obtain additional resources or information; suggesting possible resolutions (for the purpose of stimulating parties to generate options); and reality testing or checking.

According to Kovach and Love (1994), if these activities are motivated by and result in the stimulation of party evaluation and decision-making, they "comport more with a facilitative orientation." Thus, a mediator is defined as having an evaluative orientation only when he or she has an "attitude or identity of being an evaluator (evaluative orientation) or when he asserts an opinion or judgment as to the likely court outcome or a 'fair' or correct resolution of an issue in dispute (evaluative conduct)."

Kovach and Love (1994) believe that as long as the mediator does not give an opinion on the merits/damages due to a party, all other mediator opinions, assertions, challenges, and actions

are acceptable in a facilitative mediation. The mediator must not “‘answer’ the question posed by the dispute” or the mediator would be engaging in improper evaluative conduct.

Thus, it appears that they would classify as facilitative any conduct short of a direct answer to the question posed by the dispute. They appear to believe that such conduct is consistent with the definition of a mediator as one who “facilitates communications, promotes understanding, focuses the parties on their interests, and seeks creative problem-solving to enable the parties to reach their own agreement.”

Love (1997) describes the role of the mediator as that of a facilitator who: guides and enhances communication; generates and supports collaboration and problem-solving; encourages more optimal outcomes that maximize the benefit to both parties; captures and clarifies agreements; provides frameworks for parties that do not have legal information; steers parties to sources of relevant law; and presses parties to search for optimal outcomes and not to accept the first acceptable proposals put on the table. Love (1997) opines that conduct such as setting the agenda and reality testing is “a necessary part of facilitation.” What is somewhat unclear in this debate is that, while Kovach and Love appear to permit almost all evaluative conduct short of a liability/damages assessment, they continue to argue that “evaluation and facilitation are radically different activities.”

Stulberg (1997) also argues that facilitative concepts of empowerment, participation, and the freedom to develop or reject proposed solutions are “denigrated and undermined” when the mediator becomes evaluative. According to Stulberg (1997), mediation should be solely a facilitative process “designed to capture the parties’ insights, imagination, and ideas that help them to participate in identifying and shaping their preferred outcomes.” Furthermore, he does not see this debate as a “terminological quibble,” arguing that “considerably more is at stake.” Stulberg (1997) believes that this debate is occurring on a foundation of quicksand. He believes that the weakness in the facilitative-evaluative debate is in the description of what constitutes

facilitative conduct. Stulberg believes that a facilitative mediator can be firm, forceful, imaginative, creative, active, and focused. In addition, Stulberg believes that a facilitative mediation can aggressively prod the parties to reconsider a position, actively restructure the agenda, and challenge unworkable or misleading proposals - all within the context of a facilitative mediation. According to Stulberg, as long as a mediator does not undermine party participation and their efforts at imaginative problem-solving, the mediator can engage in a wide array of conduct that others would call evaluative. This conduct even includes suggesting a particular settlement. Thus, one of the problems that Stulberg has with evaluative mediation as described by Riskin is that he believes that facilitative mediation involves bargaining that requires conversation, dialogue, and interaction with perceived opponents with requisite fundamental respect for one's counterpart.

While apparently permitting a facilitative mediator to engage in a wide array of evaluative behaviours except pronouncement of a formal opinion of the value of the case, Stulberg argues that the distinction between facilitative and evaluative is important. He notes that only a facilitative mediator, as he defines this term, "is in a position to ground an approach to problem-solving that anchors the behaviour and principles of her performance in a manner consistent with consensual decision-making." According to Stulberg, critics believe an evaluative mediation undermines the parties' understanding of each other and their ability to develop their own resolutions.

2.4.2.3 Eclectic Mediation; Stempel (2000) has observed that "the definition of mediation according to the facilitative-evaluative dichotomy is unrealistically formalistic as well as theoretically and empirically erroneous." Stempel (2000) argues that this split is reflective of two other divisions in the ADR and legal community. They are the procedure-substance split and the disputant satisfaction-just outcome split. Thus, persons who are in the procedure camp

tend to see procedure as more important or as important as substance. Those in the satisfaction camp see a good resolution as one where the parties walk away satisfied while the just outcome camp see a good resolution as one that reaches a substantively good result.

Stempel notes that facilitative mediators tend to be in the satisfaction camp while evaluative mediators tend to be in the results camp. He proposes that one way to reconcile the facilitative-evaluative tension is to recognize that some disputes are more amenable to a facilitative approach while others are better suited to a “more evaluative” approach. He deems this more evaluative approach as “eclectic mediation with more evaluative events. Stempel observes that while scholars call for a strict dichotomy wherein evaluation does not occur and facilitative conduct cannot co-exist, there is common ground among mediation practitioners that mediation cannot be divided into facilitative and evaluative categories but rather encompasses both. He labels this common ground “eclectic.”

Stempel initially proposed a facilitative-evaluative continuum based on the type of dispute mediated. Employment law disputes and civil rights disputes are placed on the evaluative side of the continuum, surpassed only by statutory interpretation. He then abandoned this approach in favour of one that is context-specific, taking into account: the past relationship of the parties; current relations; prospects for future relations; the stakes of the dispute; the certainty or uncertainty supplied by the legal regime; the divisibility of the matter at stake; the substitutability of items at issue; the political, public opinion, and social climate; and the personality of the parties. Stempel rejects pure facilitative mediation as impractical and unworkable in practice. Stempel also rejects the facilitative camp’s claim that evaluation is inherently coercive.

According to Birke (2000), mediation involves both facilitative and evaluative techniques. Birke notes that “any mediator who believes that any mediation of a legal dispute can be

entirely facilitative or entirely evaluative and still settle is suffering from a delusion.” To Birke, these distinctions and self-identification into the two camps serve little purpose.

Levin (2001) notes that there is no single accepted definition of mediation. Regarding evaluative mediation, he explains that the concept flows from the belief that disputants can benefit from a qualified neutral’s guidance regarding substantive issues and the merits of each party’s position. (Levin 2001) Levin notes that the facilitative/evaluative nature of mediation is best viewed as a continuum. Besides offering outright opinions on the merits of the case, Levin identifies evaluative mediator conduct as including discussion of the weakness of a position, the cost of litigation, and

Weckstein (1997) posits that a mediator can engage in clearly evaluative conduct - providing an opinion, evaluation, suggestion, recommendation, prediction, or other pertinent information or advice - so long as such evaluative conduct enhances party self-determination. Weckstein argues that notwithstanding the opinions of commentators and the statements of ethical standards for mediation, there are situations where a mediator should give an “opinion, evaluation, suggestion, recommendation, prediction, or offer pertinent information or advice.”

There is no need to put mediation in a box. Else the point of ADR is defeated. New methods are adopted to suit particular disputes to achieve the greatest satisfaction for parties to disputes as possible. It is important to keep this in mind when proposing and criticising theories. If each branch or form of negotiation is criticised and only one form advocated for, it then eventually it becomes rigid and static just like conventional dispute resolution methods, hence defeating the purpose of ADR techniques. Each form or theory should be applied where applicable.

2.4.3 Arbitration

This is a formal process in which a third party who has been chosen by the disputing parties, renders a decision on the legal merits of the dispute. The arbitrator renders this decision after a hearing that generally involves the presentation of evidence and oral argument.

Widespread employers use of arbitration to resolve employment disputes as an alternative to litigation began in the early 1990s. In what Howard (1995) labelled a “stampede,” employers post Gilmer began earnestly implementing binding employment arbitration agreements. In employment arbitration procedures, both the employer and employee agree that employment disputes will be taken to an arbitration tribunal rather than to court. More narrow agreements may be limited to claims involving alleged statutory violations while others may apply more broadly to any type of employee or a claim by the employer against the employee. Regardless of the scope, most employer-promulgated arbitration agreements are mandatory, and the decisions are final and binding. Thus, employment arbitration is a hard justice system.

Numerous arguments oppose employment arbitration with most of the criticism centring on pre-dispute binding arbitration which requires employees (or prospective employees) to choose between accepting the employer’s arbitration process or losing either their present job or the chance to be hired. Moreover, these are contracts of adhesion. There is no bargaining over the terms of the procedure as it is presented to the employee on a purely take-it-or-leave-it basis (Wheeler et al., 2004). Unlike labour arbitration agreements, employer-promulgated arbitration procedures are designed by the employer without employee input so such agreements can, in perception if not substance, be unfairly tilted against employees. However, in some circumstance, arbitration results when negotiation and mediation fails to work. Therefore, in employment contracts, the final recourse is usually arbitration.

2.5 Overview of Laws On Dispute Resolution Process in Ghana

2.5.1 The Labour Act

The Labour Act covers all employers and employees besides the ones in strategic positions like the military, Police service, Prisons service and the Security Intelligence.

Section 1 of the Labour Act provides for its application. It covers all workers, employers except the Armed Forces, Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526).

Sections 153, 154 and 157 provide for the procedures that shall be employed disputants and the Labour Commission to settle industrial disputes. These include the use of negotiation, mediation and arbitration. In negotiating parties are implored to negotiate in good faith with a view of reaching an agreement. The Commission after the parties have failed their differences through negotiation shall request the parties to settle the dispute by mediation. The Commission is empowered by the Act to refer an unresolved dispute to Arbitration. The Commission shall do so in agreement with the parties but where they fail the commission is further empowered under section 164 to refer the matter to a compulsory arbitration. Section 158 provides that the award by the arbitrator(s) shall be final and binding on the parties.

2.5.1 The Alternative Dispute Resolution Act

There was the need to review the existing Arbitration Act 1961 (Act 38) because its provisions were overtaken by developments in international arbitration. The Alternative Dispute Resolution Act (Act 798) was thus enacted to ensure that the domestic law on international arbitration is brought in line with international arbitration law and practice.

The Structure of Ghana's New Alternative Dispute Resolution Act 2010

The Act is written in five parts: part 1 deals with everything arbitration; part two deals with mediation of disputes; part three deals with customary arbitration; the provisions of part four relate to the establishment of an ADR centre; and part five relates to various financial, administrative and miscellaneous matters.

The Act also incorporates five schedules: the first schedule reproduces the provisions of the Convention On the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the 'New York Convention'); schedule two, which is titled 'Alternative Dispute Resolution Centre Rules', sets out the Arbitration Rules pursuant to section 5(3) and 8(2) of the Act; schedule three contains the Expedited Arbitration Proceedings Rules of the ADR Centre, The Mediation Rules for this Centre then appear in schedule four; and schedule five contains samples of arbitration clauses or agreement.

2.7 Conclusion

The purpose of this chapter was to theory and importance of a good and effective conflict management system. It was also to explore the various types of conflict resolution mechanisms available in literature. The research showed that organisations are adopting ADR mechanisms such as mediation and negotiation at a very fast pace. Organisations are gradually ditching the conventional methods of solving disputes. Different types of ADR practices were explored. Little or no work has been done in the form of research in the Ghanaian setting. Literature was almost non existent when it came to the Ghanaian setting. That begs the question whether organisations in Ghana do not practice ADR and to what extent it is practiced.

CHAPTER THREE

METHODOLOGY

3.1 Methodology

This chapter focuses on the methodology underlying this study. It centres on the explanation of the research approach and procedures used in the data collection of the work which seeks to assess ADR mechanisms and its outcomes over conventional conflict resolution mechanisms in Ghanaian companies. Thus, the chapter discusses the methodological approach of the study. It provides some discussions on the philosophical perspectives informing the study and offers a justification for the use of the chosen paradigm. The chapter also discusses the rationale for the method and steps used to collect the data.

3.2 Philosophical Perspectives

Every research is based on some inquiry paradigm (Myers, 2009). According to Collis and Hussey (2009), a research paradigm is a philosophical outline that guides and directs the way a scientific research should be conducted. Many researchers have argued that issues about reality and the nature of knowledge keep changing over time. The reason is that, there are new research paradigms in response to the inadequacies of previous paradigms (Collis & Hussey, 2009). Research Paradigms are universally recognised scientific achievements which offer some classical problems and solutions to a community of researchers (Kuhn, 1962). Accordingly, research paradigms are the basic set of beliefs that guide actions of researchers (Guba, 1990) to be taken as projects. Hence, research paradigms can be defined by their philosophical assumptions. However, an important means to understand a particular research philosophy would include its epistemology, ontology and axiology since, these three elements are what differentiate each research process from the other (Saunders et al., 2007) and can be described individually as:

1. Epistemology describes what is recognised as valid knowledge, and details the relationship between an investigator and what is being investigated (Collis & Hussey, 2009). It is the method by which we seek, justify, and explain knowledge to people who wish to know by telling them how we arrived at our beliefs. Epistemology is fundamental in scientific enquiry if researchers want to follow proper scientific theorising which can only occur after the development of epistemological theory (Johnson & Duberley, 2000).
2. Ontology describes the nature of reality in the investigation process. Accordingly, whereas interpretivists consider social reality to be subjective since it is socially constructed and involves multiple realities where each researcher has his/her sense of reality, positivists consider social reality to be objective and outside of the researcher's setting and therefore, constitute a single reality (Collis & Hussey, 2009). In scientific research, the relationship between the researcher and his/her background is a significant factor to be considered. This relationship can be described as an important ontological and epistemological concern that shapes the identities of researchers and the nature of the complex social fabric (Denzin & Lincoln, 2008).
3. According to Guba and Lincoln (1994) both positivist and interpretivists researchers place value on what constitute an investigation, and which form should be chosen if the researcher is to make sense of his/her experience. As a result, the question to be asked is; is the research process value free and unbiased or it is value laden and biased? (Creswell, 1994). The axiological response to the positivists is that, researchers should be detached and independent from what they are investigating, and regard the phenomenon under investigation as objects. The axiological response of the interpretivists is that, researchers should be directly involved with what is being

investigated, however the researchers must value and recognise the facts drawn from the interpretations of the process (Collis & Hussey, 2009).

Accordingly, Creswell (1994) argues for the understanding of the importance of the assumptions of positivism and interpretivism based on the epistemological, ontological and axiological approaches as essential in providing direction for designing all phases of a research study. Based on this, this work takes cue from this knowledge in order to provide a realistic appreciation of the phenomenon at stake. Thus, the work adopts the interpretivist phenomenology in order to understand the deeper nuances of the phenomenon of conflict and Alternative dispute resolution mechanism.

3.2.1 Interpretivism Phenomenology

The interpretivism also known as the naturalist paradigm is based on the view that reality, or truth is based on the understanding of multiple, intangible mental constructions, which are socially and experientially grounded. It is narrow and specific in character but contingent on the individual or groups holding the constructions (Guba & Lincoln, 1994). According to Jankowicz, (2005), interpretivism works with a direct principle, and embraces an ontology and epistemology which comprises three factors:

1. It validates the significance and weight of an individual's belief and conviction.
2. It does not only concentrate in finding the truth, but rather focuses instead on socially agreed understanding.
3. It facilitates the continuous, thorough, and careful observations of the individual, social, and situational factors experienced in the field of study.

From the description above, interpretivism is underpinned by the belief that social reality is not objective but highly subjective since it is shaped by our perceptions (Collis & Hussey, 2009). Thus, interpretivists disagree with the notion of objectivity, but rather recognises that

interpretations are not value-free from the researcher who acknowledge his/her subjectivist position (Guba, 1990). Accordingly, the interpretivist phenomenology philosophy contends that an in-depth understanding of the structure of encountering or experiences of phenomena can truly allow us to transcend the subject/object dualism (Zelic', 2008). Similarly, Van Manen (2007) argues that the outcome of phenomenology is realising and seeing meaning which is only possible through the effective involvement with the things of our world in 'everydayness'. The observation of our everyday involvement with our world provides an essential understanding of the phenomenon by revealing our relation to it (Van Manen, 2007).

3.3 Research Approach

Research can be mistaken for collecting data, documenting facts, and hunting for information (Leedy & Ormrod, 2001). Research is more than gathering information. It involves a complex method of gathering information, interpreting and analysing data to comprehend the occurrence of a phenomenon. According to Leedy and Ormrod (2001), research is the process of collecting, analysing, and interpreting data in order to understand a phenomenon. The research process is systematic in the sense that objectives are defined to regulate the scope of the research, data is collected and managed, and communicating the findings which all occur within established frameworks and in accordance with existing guidelines. The frameworks and guidelines provide researchers with an indication of what to include in the research, how to perform the research, and what types of inferences are probable based on the data collected. Research originates with at least one question about one phenomenon of interest. A question leads the researcher to look or research for answers (Williams, 2005).

The three basic ways to conduct research are quantitative, qualitative, and mixed methods. Researchers ordinarily select the quantitative method investigate questions requiring numerical information, the qualitative approach to look into questions requiring textual information, and

the mixed methods approach for examining questions requiring both numerical and textual information. Quantitative research includes the gathering of data with the goal that the data can be measured and subjected to factual treatment keeping in mind the end goal to help or disprove "alternate knowledge claims" (Creswell, 2003).

Qualitative research is an all encompassing methodology that includes discovery. Qualitative research as characterized by Creswell (1994) portrays as an unfurling model that happens in a natural setting and empowers the researcher to build up a level of detail from high association in the actual encounters and experiences. Accordingly, it enables the researcher to comprehend the what and why, or at the end of the day motivation behind why something is. One identifier of a qualitative research is the social phenomenon being explored from the participants' perspective. There are distinctive kinds of research designs that utilise qualitative research systems to outline the exploration approach. Therefore, the distinctive systems dramatically affect the research strategies investigated. What constitutes qualitative research includes intentional use for depicting, describing, explaining, clarifying, and deciphering gathered data. Leedy and Ormrod (2001) affirmed that qualitative research is less organized in depiction since it details and constructs new theories. Qualitative research can likewise be depicted as a powerful model that happens in a natural setting that empowers the researcher to build up a level of detail from being exceedingly or highly associated and involved with the actual encounters and experiences (Creswell, 2003). Qualitative research tries to understand a given research issue or theme from the points of view of the population it includes. Qualitative research is particularly successful in getting culturally specific data about the qualities, values, practices, opinions and social context of specific populaces. Also, with qualitative methods, the relationship between the researcher and the member (respondent) is regularly less formal than in quantitative research. Members have the chance to react more respondents and in more prominent detail than is commonly the case with quantitative methods. Researchers thus, have

the chance to react and respond immediately to what participants say by fitting ensuing inquiries to the information given (Mack et al, 2005). This was one of the reasons for the choice of a qualitative study of the researchers' topic. Qualitative approach can likewise be utilised to get the intricate details about phenomena such as feelings, thought processes, and emotions that are difficult to extract or learn about through regular means (Strauss & Corbin, 1998). This makes it more appropriate to be used in a study such as assessing ADR mechanisms and its outcomes over conventional conflict resolution mechanisms in companies in Ghana: a comparative study of domestic and multinational companies. Furthermore, the qualitative technique can give complex textual portrayals of how individuals encounter and experience a given research issue. It gives data about the 'human' side of an issue – that is, the frequently conflicting practices, convictions, conclusions, feelings and connections of people.

3.3 Research Design

Research design is a conceptual structure of the research and the type of approach adopted on the study. According to Ghauri and Gronhaug (2005), it may be explained as the blue print for the measurement of variables, collection and analysis of data. Burns and Grove (2003) define a research design as “a blueprint for conducting a study with maximum control over factors that may interfere with the validity of the findings”. Parahoo (1997) describes a research design as “a plan that describes how, when and where data are to be collected and analysed”. Polit et al (2001) define a research design as “the researcher's overall for answering the research question or testing the research hypothesis”.

Based on Davidson (2000) and Jones (2001), phenomenological approach was acknowledged, as the best means for this sort of study. Phenomenologists trust that the researcher can't be disengaged from his/her own particular presuppositions and that the researcher ought not pretend otherwise (Hammersley, 2000). In this regard, Mouton and Marais (1990) express that

individual analysts "hold explicit beliefs". The expectation of this research, at the beginning (fundamental concentration), was to accumulate data with respect to the points of view of research respondents about the phenomenon of conflict resolution in organisations.

3.4 Population of Study and Procedure

The method of collecting data was through interviews so as to comprehend and translate respondents understanding on the importance and meaning of an event. Creswell (1998) proposes the procedural format is composing the research questions that investigate the significance of the experience, conducting interviews, breaking down the data to discover the groups of meanings, and concluding with a report that advances the readers comprehension of the fundamental structure of the experience. The study collected data that lead to identifying common themes in people's perceptions of their experiences. The population study consisted of 19 Ghanaian companies; multinationals and domestic in the Greater Accra region. This is due to the fact that the head offices of the organisations interviewed are based in the Greater Accra Region of Ghana. Convenience sampling, a non-probability sampling technique where subjects are selected because of their convenient accessibility and proximity to the researcher was used in selecting the organisations. Purposive sampling was adopted in selecting interviewees (Babbie, 1995). Ten Multinationals organisations were interviewed and coded "MNC" while nine domestics were coded "DOM" In order to ensure ethical research, I made use of informed consent (Holloway, 1997; Kvale, 1996). Bailey (1996) cautions that deception may be counter-productive. The purpose of this study is "to understand an experience from the participants "point of view" (Leedy & Ormrod, 2001). The focus is on the participants' perceptions of the event or situation and the study tries to answer the question of the experience. Creswell (1998) points out that the essence of this study is the search for "the central underlying meaning of the experience and emphasize the intentionality of consciousness where experiences contain both the outward appearance and inward consciousness based on the

memory, image, and meaning”

Table 3.6 Characteristics of Respondents

Company	Position of interviewee	Gender	Experience	Origin
MNC 1	HR Manager	Female	11	France
MNC 2	HR Manager	Male	15	Britain
MNC 3	HR Manager	Female	9	Britain
MNC 4	HR Personnel	Female	5	USA
MNC 5	HR Manager	Male	14	Britain
MNC 6	HR Manager	Male	21	USA
MNC 7	HR Personnel	Male	6	Spain
MNC 8	HR Manager	Female	7	South Africa
MNC 9	HR Personnel	Male	5	India
MNC 10	HR Personnel	Male	7	Nigeria
DOM 1	HR Manager	Female	12	Ghana
DOM 2	HR Personnel	Female	23	Ghana
DOM 3	HR Manager	Female	14	Ghana
DOM 4	HR Manager	Female	11	Ghana
DOM 5	HR Personnel	Male	8	Ghana
DOM 6	HR Manager	Female	15	Ghana
DOM 7	HR Personnel	Male	6	Ghana
DOM 8	HR Manager	Female	6	Ghana
DOM 9	HR Personnel	Male	5	Ghana

Source: Author’s work

3.5 Data Sources

Data for this study was obtained from both primary and secondary sources (Ghauri & Grinhaug, 2005). Secondary data for the study was collected from such secondary sources as books, journals articles, policies and regulations of companies interviewed. Electronic sources such as Google Scholar, JSTOR, Sage publications and other website materials were explored. I conducted structured in-depth phenomenological interviews with HR managers and practitioners directly in contact with conflict resolution. The participants had worked with the company for at least 5 years. Questions were “directed to the participants’ experiences, feelings, beliefs and convictions about the theme in question” (Welman & Kruger, 1999). Data were obtained about how the participants “act in the most direct ways” (Bentz & Shapiro, 1998, p. 96). Focus was on “what goes on within” the participants and got the participants to “describe the lived experience in a language as free from the constructs of the intellect and society as

possible”. According to Bailey (1996, p. 72) the “informal interview is a conscious attempt by the researcher to find out more information about the setting of the person”. The interview was reciprocal: both researcher and research subject were engaged in the dialogue. I experienced that the duration of interviews and the number of questions varied from one participant to the other.

Kvale (1996) remarks with regard to data capturing during the qualitative interview that it “is literally an interview, an interchange of views between two persons conversing about a theme of mutual interest,” where researcher attempts to “understand the world from the subjects' point of view, to unfold meaning of peoples' experiences”. Abugre (2013) said the strength of qualitative research is that the motives of the sampled participants are expressed as truly as possible since informal interviews affords participants a more natural setting to freely contribute to the study. At the root of phenomenology, “the intent is to understand the phenomena in their own terms -to provide a description of human experience as it is experienced by the person herself” (Bentz & Shapiro, 1998,) and allowing the essence or the theme to emerge (Cameron, Schaffer & Hyeon-Ae, 2001).

3.6 Data Coding

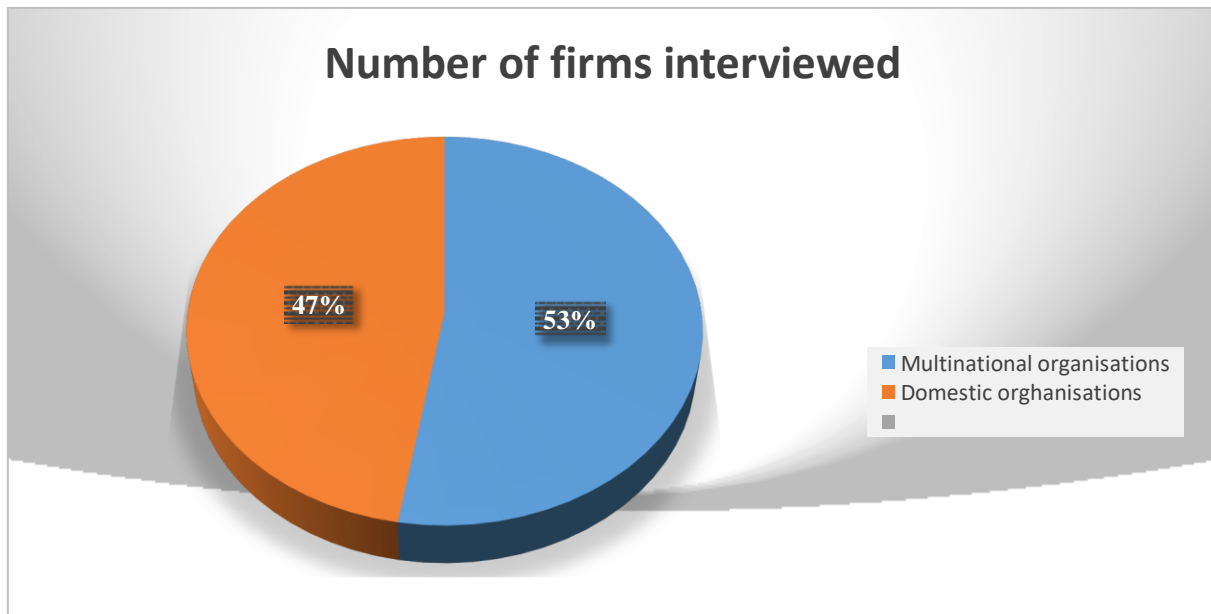
Qualitative method of analysing data includes the identification, examination and interpretation of patterns, themes and subjects in literary data and deciding how these themes and topics aid in responding to or answering research questions. This more often than not includes a technique called coding. Smith and Davies (2010) contend that coding does not constitute the totality of information analysis, but rather it is a technique to compose and organise the information with the goal that fundamental messages underlying the data will be clearer to the researcher. Charmaz (2006) depicts coding as the critical connection between data gathering and clarifying the importance of the gathered data. A code is a descriptive construct built by the researcher to capture the essential substance or pith of the data. Coding is an interpretive activity and in this

way it is conceivable that two researchers will ascribe two distinct codes to similar information. The setting in which the research is conducted, the nature of the exploration and the identity and enthusiasm of the researcher will impact which codes the researcher credits to the information (Engler 2014, Saldaña 2013). Amid the coding process, a few codes may show up over and over and that might be an indication of emerging themes. These developing themes may give rise to classifications. Coding is not just marking or labelling, it is also connecting data thoughts and ideas. It is a cyclic procedure. By fusing more cycles into the coding procedure, richer meanings, implications, classes, topics and ideas can be produced from the information (Saldaña 2013). The number of codes, Saldaña (2013) states, relies upon the unique setting, the nature of the information and to what degree the researcher needs to inspect the detail. Information can be 'lumped' together with a solitary code or can be 'split' into numerous parts, each bearing its own particular code. Content analysis depends on generating codes that can be connected to information with a specific end goal to form it into significant classes to be analysed and deciphered. Content analysis was utilised to examine the transcribed interviews. Stemler (2001) examines two ways to deal with the data coding: emergent coding, where codes are drawn from the content and from the priori coding where codes are created already and connected to the content. For the pilot study, the two data codes techniques were used and analysed, the advantages and downsides of both coding techniques were considered and determined which was most appropriate to the study. Faherty (2010) reports that there are "no absolute hard and fast rules" to coding; hence, it was essential to be aware of and open to the different coding methods and use the pilot tests as a methods of discovery what is best suited to each study. The m coding technique that was first used was the emergent coding technique drawn from grounded theory system (Glaser & Strauss, 1967; Strauss & Corbin, 1998). The second pilot used the priori coding framework drawn from template analysis (Crabtree & Miller, 1992; King, 1998). These two coding approaches were chosen as

prototypical extremes, where one endeavours to distinguish the importance inside a content with no previously established inclinations and the other uses intentionally created codes drawn from the text as a way to establish meaning. Emergent coding was identified as a method of producing a “participant-generated theory” from the data and priori coding was identified as a tool for framing data into a coherent construct through the application of an “established language” (Faherty, 2010). Emergent coding was adopted for the study as it provided a true and detailed representation of the data collected without preconceptions or preconceived notions.

Open coding involves using codes that are derivative from the text (emergent codes). There is some debate with respect to how this may be done: Glaser (1978, 1992) proposes this ought to be done line by line; Corbin and Strauss (1990) urge researchers to code "conceptually similar events/ actions/ interactions" and Stalp and Grant (2001) offer a connected system that aides the the coder to identify inductive ideas and concepts. Glaser (1978) likewise proposes constant comparison of information and classifications while Corbin and Strauss (1990) recommend that "the research process itself guides the researcher". Amid the coding stage, singular responses were coded for new key words. The coding of the transcript was done by enabling the data to justify and speak for itself. In the second stage repetitive codes were found and drawn together. Codes were combined where there was a significant and substantial overlap, and coded perspectives were examined for sub categories. This procedure gave rise to five codes that were drawn and refined from the transcripts and these five codes were then revisited upon the transcript to highlight relevant areas of data.

Figure 1.0 Pie chart of organisations interviewed.



3.6.1 Validation of the Data

Validity of the qualitative data was the greatest significance to this study. Therefore, I constantly compared the data to check for consistency and accuracy in the application of the data coding procedure. Particularly, I looked for differences and variations across cases, and key social and psychological factors that might affect the phenomena coded (Gibbs, 2007). Evidence of validation of the data is also reflected in the copious quotations from the interviews of the participants. This is further reinforced by my ability to validate the transcript with respondent validation as all participants left their telephone numbers with me and assured me of additional information on what they reported on.

3.6.2 Reliability of the Data

Data transcriptions were checked and rechecked many times to offset obvious mistakes in the coding process or possible drift in coding. In instances of more than one interviewee in one company, participants' data were rechecked for consistency and variations.

3.7 Conclusion

This chapter has provided a detailed description of the method used to collect and analyse data for this research. Thus, the chapter outlines the sample size and interview process. It also, discussed the methods used to extract relevant data from participants' responses.

CHAPTER FOUR

RESULTS AND DISCUSSIONS

4.1. Introduction

The goal of this chapter is to critically analyse the results of the work, and then make a significant discussion of the findings emanating from the results relative to the study objectives and research questions. Thus, the chapter presents the thematic categorisation outcomes arising from the analysis of the interviews of respondents of this thesis. By this, a description of the method of analysing the interview data described in the previous chapter (Methodology) is rightly followed. Hence, in-depth reading, thematic analysis, and categorising the themes according to the research questions are applied to generate the study findings. In the analysis of the interview results, the terms company, organisation and firm are used interchangeably to mean the same.

4.3. Results, Findings and Discussion.

Analysis began by carefully reading through transcripts. Subsequently, thorough and in-depth reading to generate the themes of the work. Five broad themes emanated based on the review of literature and the objectives of the study. These are presented in Table 4.1 below. Each theme or category in this section captures aspect of the lived experience of conflict management practices and alternate dispute resolution (ADR) mechanisms as described by the participants in the study.

Table 4.1: Themes emerging from study

	Categories/ Themes
1	Unionization
2	Firm age/ size
3	Organisational Policies and Regulations
4	Management support
5	Alternative Dispute Resolution

Source: Authors work

4.2.1 Unionisation

The research findings indicate largely that unionisation plays a major role in determining both conventional and contemporary dispute resolution practices. Hence, the findings demonstrate that whether or not an organisation is unionised affects conflict management in the organisation. In most cases, non-unionised employers freely and unilaterally design their ADR system. On the other hand, firms with unionised workers embrace a more extensive scope of ADR practices and utilise less traditional methods. Given this adaptability, these frameworks and their execution regularly varies from organisation to organisation.

An important factor identified as driving the fragmentation process of conflict management practices has been non-union multinationals pursuing ethnocentric HRM strategies. Specifically, Roche (1998) proposes that numerous non-union multinational subsidiaries, mainly in high value-added sectors, operate sophisticated state-of-the-art people management policies to starve off the threat of trade unions who are in the habit of organising campaigns. However, it runs contrary to the findings of this study. Unions share elaborate conflict management strategies, and comprehensive empowerment programmes are seen as core features of HRM regimes in unionised multinationals. In fact, 42% of companies interviewed, had employees involved in unionisation. Out of the 42% unionised companies, 100% were multinationals 90% of the unionised firms had or practised a wider range of innovative conflict management practices. These quotations from the respondents are indicative of that:

Our employees are in a union. And usually with unions, disputes resolutions are quite different from non-unionised firms. There are usually representatives from the union and representatives from management. They sit together to look at the whole issue, then come up with recommendation. The recommendation is given to management. Sometimes management considers what has been proposed by the committee, other times management overrules the proposal because it is a recommendation which they are not bound by it. Thus, management may look at other alternative ways of disciplining the person if the employee is found guilty. If the person is not found guilty, the matter ends there. (MNC 5).

You know unions are very influential when it comes to dispute resolution. This company is from France; in France they believe in unionisation, so we are encouraged to let our employees form or join a union here. It has its advantages and disadvantages but when it comes to conflict management styles, we have an extensive number of practices that we use. Litigation has been prevented many times because we rather encourage arbitration by making use of the union. (MNC 1)

Beyond that, a few prominent non-unionised multinational companies did not operate sophisticated and well-known conflict management systems. About 20% of unionised firms investigated do not practice innovative conflict management styles.

Normally, organisations that have employees in a union like ours have formal disciplinary and grievance procedures to tackle workplace difficulties. When it comes to grievances, for instance, the processes usually involve the use of numerous prescribed stages, the first of which involves the employee to put their case directly to the immediate supervisor. After submitting a grievance report, an employee is usually represented by a trade union representative. On the management side, progressively higher levels of managers become involved if the grievance is not resolved at the first or intermediary stages of the procedure. The final step of the procedure invariably involves a formal adjudication of the problem by an external independent party or The Labour Court. (MNC 8)

In spite of the fact that unionised firms slant towards the conflict management practices emphasised on above, there is an impressive variety in the degree to which firms are fruitful in settling organisational disputes and grievances. Quite a bit of this variety is because of internal hierarchical traits, for example, an absence of shared understandings amongst representatives and employers about core organisational objectives, a history of good or bad industrial relations, poorly designed or inadequately implemented conflict management systems and

employee resistance to workplace change (Walton, Cutcher-Gershenfeld & McKersie 1994). The results equally showed that systems for dealing with grievances and disputes in non-union organisations are typically observed as less formalised than in unionised firms. Unionised firms tend to have 'deeper' formalised conflict management systems than non-unionised firms. On one hand, unionised firms are more likely to possess a greater number of conflict management procedures and on the other hand, non-union firms are probably more accepting to informal methods to resolve disputes at the workplace. The following assertions made by respondents are illustrative of this:

In this organisation, employees are not in a union, and as the HR manager, I handle all disputes. We do not have people representing the employees therefore we address the dispute when it arises. We have a procedure, but we can depart from it as and when the situation calls for it. We use mediation sometimes, with me being the mediator or we use queries sometimes. It all comes down to the type of dispute and its severity. (DOM 1)

As I told you earlier, we are not a unionized company, so we don't really go much into other methods. The employees represent themselves and management represents themselves. Sometimes the dispute is between 2 or more employees. We follow strictly what is in the employee handbook. (DOM 4)

In any case, the contrasts between unionised and non-unionised firms ought not be overplayed. Many non-unionised organisations have formalised conflict management practices. Alternatively, a decent amount of informality can be found in unionised firms. For example, frequently, informal discussions between union representatives and management can either avert a potential conflict or secure an agreement about an ongoing problem as stated by respondent MNC 5 above.

Thus, the study findings show that in unionised firms, employees can be represented by trade unions in negotiated conflict management procedures. In contrast, conflict management procedures in non-unionised firms are likely to be unilaterally written by management and are unlikely to allow an employee to be represented by a trade union official. This means conflict management systems illustrate different models of conflict resolution by both union and non-

union organisations. This finding is in consonance with Lewin (1987) who suggested that conflict management systems in no-union are less likely than unionised organisations to gravitate to a uniform model; yet, they are likely to share some similar traits at some point. Similarly, the results from this work explain that non-union organisations most likely assume that management – employee interactions are based largely on trust and unity of interest. Thus, workplace conflict is likely to be regarded as deviant and to some extent a symptom of managerial failure (Rowe 1997). Thus, unlike unionised workplaces, where problems at work are considered to be almost inevitable, workplace conflict in non-unionised firms is not seen as either desirable or inevitable, but something that needs to be managed and kept to a minimum (Peterson 1992). Non-union organisations are usually of the view that the professional integrity of managers ensures that workplace conflict will be addressed effectively and fairly. Non-union organisations tend to prefer workplace conflict remaining as an in-house problem. Thus, strenuous efforts are normally made to avoid an employment grievance or disputes which could end up in front of an Employment Tribunal or any other public dispute resolution agencies (Lewin 2001).

4.2.2 Firm Age/ Size.

The results of the study found that a firms' size or age impact greatly on conflict management practices and resolution mechanisms. In relation to this category, respondents in smaller firms always noted that they were not a big organisation and were still developing their conflict management system. This was largely characterized by responses that said they were relatively new and had not developed one yet since other areas required more attention. About 21% of respondents said that they had no effective and efficient conflict management system in place but were planning to do so in later time when they are maturely established. These firms currently try to settle any small disputes that arise by mediation. They attributed a lack of an

effective conflict management system to the fact that they were Start-up Companies or not very big and established companies hence, they are more focused on growing in other fields before expanding their HR functions.

Respondents that attributed a lack of an effective conflict management due to firm age had this to say:

We are not very old. We are quite young. Less than 7 years. So now we don't have some these HR practices. I was discussing with our legal team who just went for training. We are now going to come up with more policies, where we will include the ADR methods such as mediation and arbitration to be put it in place (DOM 6).

For now, our focus is on growing our firm. Therefore, marketing is where we focus on the most. As you can see, we are a start-up so we need to increase production and marketing before we can do these secondary things (DOM 8).

Respondents who relied on firm size as an excuse had this to say.

We are a very small firm; we do not have time for disputes. For the most part, we all get along. I think this is because we have the same goals and objectives now. We have not gotten to the point where we are disputing yet. When our numbers grow, invariably, disputes come along with that. Therefore, we will deal with that when we get there (DOM 4).

We encounter disputes despite our small number but not serious disputes. Usually, they die down naturally or we try to get both parties to reason it out. That is negotiation right? Well, we have negotiation now but it is not formal. No steps are required we are less than 20 in this company, we barely have conflicts (DOM 5).

Overall, the results show that the size of a firm as well as its age is a great indicator as to what sort of practices are available in the firm with regards to HR practices and conflict resolution mechanisms. In fact, the findings illustrate that smaller firms regarded most HR functions including dispute resolution methods as secondary issues, thus would rather invest in line functions or the core business of the organisation. This was especially true in small and medium enterprises. Thus HR functions are pushed to the side until the company grows in size or company earnings are increased.

4.2.3 Organisational Policies and Regulations

Organisations experience periods of internal discord, tension and conflict at one point or another. But they must have ways of resolving these if they are to carry out their functions and achieve their goals. First of all, over 90% of organisations surveyed had a formal HR department. These departments are responsible for managing conflicts whenever they arise. Companies are obliged at a minimum to comply with the legal and regulatory requirements of the countries and local regions where their operations are based. Some company tools and mechanisms for conflict management are required by national legislation. In addition to national norms and standards, organisations have management standards and Codes of Conduct, which are usually found in the employee handbook or collective bargaining agreement. Industry-specific initiatives on people management practices also exist. They establish a framework to support dialogue in the formulation of policies, laws, regulations, strategy and management plans with the aim of improving the enabling conditions and enhancing capacity of workers. It is imperative to note that an organisations' regulations plays a very crucial role in the management of the organisation, managing the organisation includes managing its workers. Most respondents of the study agreed unanimously that they followed policies and procedures that exist in the organisation. Respondents stated that if regulations provided for a leeway to adopt other mechanisms, they did and if regulations provided for strict application of rules to a dispute, the regulations were always complied with.

Some of the respondent had this to say about following procedures and policies:

Usually, if a dispute arises, its usually a party going to inform us or we get to know ourselves. So we send an email to both parties, asking them their different opinions or we invite them to our office to hear both parties. After hearing both parties, we go ahead to look at our policies on who is right based on our policies. Based on that we call them and give feedback according to our policies. Or we send them an email response. If we realise that working together is still going to create conflict, then we will transfer

them or bring additional people. That's how we do it. For now, we strictly go according to our policies. We hardly depart from the organisational policies and norms (DOM 3).

We have a committee set up for things of these nature. A Committee is set up according to the guidelines in our regulations. We use that to solve any conflict that arises (DOM9).

You see, we have been using the grievance procedure in the employee handbook for years. We have not changed it much. So we have nothing new to compare it to. Since you have explained other methods to me, I am sure those will be good to practice too. But for now this is working for us (MNC 4).

So far we have not had any problem or dispute that ended in litigation so that is good. One thing about these strict procedures is that, most of the time before the employee complains, he already knows the outcome because we have used them for a very long time. The disadvantage is that it creates an 'us v them' mentality. So most of the time if they know it won't go their way, they do not report it (MNC 7).

Thus, policies and regulations play an important role in determining whether HR will adopt novel and innovative practices. Most policies that leave a little room for the person resolving the dispute to find ways to settle disputes developed new ways overtime, but organisations whose policies were required to be followed strictly barely develops new ways whether or not the policy provides for ADR methods.

4.2.4 Management Support

In this category, interviewees were of the unanimous view that management support greatly influenced the type of conflict management systems in the organisation. To have an effective conflict management system, whether conventional or otherwise, management had to be wholly involved in the process. The results indicated largely that adequate support from top management determined the type of conflict management practices that would exist in the workplace. Respondents believed that organisations with an autonomous HR body recognised and supported by management were more likely to adopt innovative practices and be more strategic in their HR function than organisations that had no recognised HR system.

Additionally, organisations without a management that allowed for autonomy in the HR department were more likely to adopt innovative practices at a slower rate.

The sample responses bellow is illustrative:

Top management is very key when it comes to these matters. I cannot on my own adopt new procedures without top management consent. And I have been working as the HR manager here for over 5 years. I have won several awards but for some reasons, they still want new and major decisions to be passed through them and the legal team before they are being implemented. In these issues, I think autonomy is important, but here we are. Anyway, we would have adopted these procedures faster if management was as concerned about these as they are with other issues (MNC 8).

In this organisation, the HR department is tied to the legal team. We have no separate HR department. Therefore, there is a lot of bureaucracy. So many things have to be done before a single thing is approved. The legal team has to make sure that no laws are being violated before instituting new policies. This makes it quite difficult to come up with new practices. But recently we had a meeting and we came up with a draft of approaches such as mediation and arbitration. We do not use them yet, but we are instituting them soon (DOM 4).

It is usually difficult if management micromanages the affaires of any department. Fortunately, we do not have that here. Our HR department was outsourced therefore, they had little control over how it worked. But a few years ago, we started an in house HR department. And due to the history of the firm, I would say that management allows us to run things the way we think best. We have policies and procedures, but most often than not, using them for all kinds of disputes creates stagnation. We challenge ourselves in this organisation to come up with methods that satisfies everybody involved in the dispute. And I would say the outcomes are impressive (MNC 6).

4.2.5 Alternative Dispute Resolution

Alternative dispute resolution, (ADR) approaches seek to involve the disputing parties in the resolution of their conflict, thereby increasing the probability that each of them will be more satisfied with the outcome than a situation in which a manager or a trial judge imposes a decision. Sixteen (16) participating firms or organisations representing 84% of respondents

stated that, they practiced one form of alternative resolution mechanism or another. In fact, 6% of these organisations practiced solely ADR mechanisms. From the interview transcripts, different organisations practice different types of ADR methods, the most prevalent being mediation, followed by negotiation and finally, arbitration.

4.2.5.1 Mediation.

Twelve (12) organisations, representing 63% of the firms sampled used one type of mediation or another. Out of these 12 firms (representing 63% of the total population of the study), 98% of them (12 firms) used an in-house mediator - usually the HR manager or HR personnel serves as the mediator. The remaining 2% utilised an external mediator. Notwithstanding, the 98% that uses an internal mediator, 51% of that number used an external mediator in the case where the in-house mediation process failed. While internal mediators are likely to provide benefits for peer-to-peer disputes, their ability to effectively resolve more “charged” disputes, such as discipline or termination, is mostly doubtful. Although unable to impose a binding decision on the parties, mediators employ win–win bargaining strategies in an attempt to achieve a mutually agreeable solution. The increasing trend of mediation is largely attributed to non-adversarial, non-binding and relatively informal way as compared to arbitration and its more organised nature due to the presence of a mediator to regulate proceedings as compared to negotiations. The following are responses from respondents whose firms adopt mediation:

The main technique or approach is the mediation approach to resolving disputes. Basically it is mediation we used here, and that is it (DOM 7).

Our structure for handling disputes, I would say is solely ADR. Now we use only ADR and in rare cases, very rare, I have been HR manager for 5 years, and in the HR department here for over 6 years and we have had just one case we did not use ADR. We always use mediation and usually I serve as the mediator which is an aspect of ADR (MNC 1).

The main technique or approach is the mediation approach to resolving disputes in this organisation. That is what we use mainly. We used to have a procedure in the handbook that included setting up a panel of the HR head

as well as some other managers but we realised that sometimes the committee members were involved in the dispute. So we revised our mechanisms and adopted the mediation process (MNC 10).

4.2.5.2 Negotiation.

From the interview results, the next most common form of ADR found was negotiation. Most often than not, firms that practiced mediation, started with negotiation and advanced to mediation when negotiation yielded no results. Evidence of this is found in the responses below:

When there is a dispute the grieving party reports to HR. this can be through an email or to walk directly into HR. If it is with another employee, we set a date where they can sit and hush it out. They use the conference room for 45 minutes. If it is with a manager, or if it is about pay increase, same applies. The person responsible for running the area where the complaint is directed sits with the complainant and they try to reach a common solution. If this fails, we mediate. (DOM 5)

Negotiation really works for us. Since an employee will not want another party making a decision for him, he tries as much as possible to reach a negotiated settlement whenever a dispute arises. We have the option of negotiation and mediation. And employees always go for negotiation because it makes them feel in control. Only when there is hostility between the parties that mediation is used to prevent disputes from escalating. (DOM 4)

4.2.5.3 Arbitration

This is a formal process in which a third party who has been chosen by the disputing parties, renders a decision on the legal merits of the dispute. The arbitrator renders this decision after a hearing that generally involves the presentation of evidence and oral argument. Of all the ADR methods most respondent firms adopted, arbitration was the least utilised. This is mainly due to its semblance to litigation. However, organisations that use arbitration but avoided litigation altogether, were either unionised firms or had dispute with a stakeholder outside the organisations such as investors. From the results, it was rare for arbitration to be resorted to in disputes involving employees or between employees and employer.

Due to the fact that employees are in a union, when there's conflict, it's usually us and the union. If negotiations fail, we resort to arbitration. This is provided for in the collective bargaining agreement. The unions have a panel of arbitrators we choose from. They choose one, we choose another and the two choose the third arbitrator to ensure fairness. Arbitration is quite formal and the results are binding on both parties. Its just like a court judgment. However, it is private less expensive and takes far less time. That makes it so appealing to us. (MNC 1)

We use ADR extensively due to the nature of our company. We use open door policies and mediation for internal disputes. We have a lot of foreign investors. These investors are not interested in litigation, they try to avoid it as much as possible, you know. So always in our agreements, we include arbitration as a method of resolving disputes. We try as much to avoid it but investors can be demanding sometimes. They trust a quick and non-public form of binding dispute resolution. We currently have a number of cases pending in arbitration. Almost every week, we are in an arbitration process. This is a very big company and people invests hundreds of thousands of dollars, they have to protect their investments (MNC 10)

4.3 Similarities and Divergence between Multinationals and Domestic Companies.

Out of the 19 organisations interviewed, 10 were multinationals and 9 were domestic organisations. The study being a comparative study found similarities and divergence between these 2 groups of companies.

4.3.1 Similarities

In the study, one of the similarities that stood out was respondents belonging to both Multinationals and domestic organisations found ADR more viable than conventional methods. In response to the question; “in your opinion, would you say these ADR methods produce better outcomes than the conventional (or those that have been used over and over again) methods?” About 95% of respondents responded in the affirmative.

Yes, of course, those ones if you try to understand it the employee wasn't given a fair hearing. But in using these other ones, the employee is given a fair hearing. So these methods have come to improve those ones and the parties leave the table satisfied (DOM 3)

Well as I said earlier, we only use ADR, we have never gone to court to litigate these kind of disputes. Our litigations are with outside parties. Therefore, I would say they work very well. We have not encountered any difficult decision we cannot manage. As to whether the employee leaves happy, I cannot tell but I assume they do because the complaints stop (MNC 4)

Just last week we had a management meeting, we usually have these things to ensure everything is running smoothly. So yes this issue came up and I was commended for the way I handle disputes now. So I would say that the outcomes are satisfactory. Maybe more than satisfactory, very good actually (MNC 1)

The other 5% representing 1 company also affirmed that she believed ADR would be better than conventional methods even though it was not practiced in her company.

We do not practice ADR here but I believe the outcomes will be better than the stringent methods we have (DOM 9)

Another similarity that stood out was the methods or sorts ADR practices that were adopted in both groups of firms (domestic and MNCs). Mediation and negotiation are common ADR practices in both MNC and domestic companies. As already discussed above, 63% of companies adopted mediation while 28% adopted negotiation. Out of the 63%, 58% were MNCs and 42% were multinationals. Again, policies and Regulations play a huge role on how disputes are managed. As already discussed above, all organisations interviewed emphasised the importance of regulations in running HR department. Policies greatly influence the mechanisms available in both MNCs and domestic companies.

Finally, another convergence was the availability and practice of conventional methods of dispute resolution. Conventional methods were found not to be exclusive to one group. It was almost evenly distributed between MNCs and domestic companies. Even firms that practice ADR had some sort of conventional methods that were practiced as well.

4.3.2 Differences

A glaring difference was the fact that MNCS are more unionized as compared to domestic companies. This is probably due to the fact that MNCs interviewed were relatively larger and bigger than the domestic companies. They have more employees and operate in high economic value sectors. Employees see these corporations as giants they cannot take on their own thus join trade unions to protect their rights. The “significant difference between unionised and non-unionised organisations on conflict management is that the former normally use collective procedures whereas the latter normally use procedures that focus on the individual employee (Budd and Colvin 2005). A stark contrast can be seen with the responses below:

We are unionized, and because of this, employee is not defenceless when it comes to disputes. The unions drive a hard bargain (MNC 1).

As I told you earlier, we are not a unionized company, so we don't really go much into other methods. The employees represent themselves and management represents themselves. Sometimes the dispute is between 2 or more employees. We follow strictly what is in the employee handbook (DOM 4).

Also, MNCs adopts and integrates a wider range of ADR methods than domestic companies do. This can be attributed to the fact that MNCs are more unionized, therefore they have representatives willing to develop best ways to benefit both parties in the end.

HR function is less autonomous in MNCs than in domestic companies. The study showed that for HR 73% domestic companies were very autonomous as compared to the 38% autonomous HR in MNCs. Disputes are solved relatively slower in MNCs as compared to domestic companies. This can be attributed to the fact that the autonomy of domestic companies enabled them to use methods without the need to consult management every step of the way, thus less bureaucracy, resulting in faster results. Table 4.2 below gives a tabular view of the divergence and convergence found in the study that exists between the groups.

Table 4.2: Similarities and Divergence of Conflict Management Process

MNCs	Domestic companies
Similarities of Conflict Management Practices	
1. Find ADR more viable than conventional method.	1. Find ADR more viable than conventional method.
2. Mediation and negotiation are common ADR practices	2. Mediation and negotiation are common ADR practices
3. Policies and Regulations play a huge role on how disputes are managed.	3. Policies and Regulations play a huge role on how disputes are managed
4. Practice conventional methods of dispute resolution	4. Practice conventional methods of dispute resolution
Differences in Conflict Management Practices	
1. Employees are usually in a union.	1. There is less unionisation.
2. Adopts and integrates a wider range of ADR methods.	2. Adopts and integrates limited range of ADR practices.
3. HR function is less autonomised.	3. HR has better management support and autonomy.
4. Disputes are solved relatively slower	4. Disputes are solved relatively faster

Source: Authors work

4.4: Conclusion

This chapter has critically broken down the data and analysed it thoroughly. It identified the themes, discussed them as well as comparatively discussing the the systems in place for resolving disputes in domestic organisations and MNCs.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter concludes the study. It presents the conclusions drawn in relation to the objectives and findings of the study. It also discusses the implications, limitations and recommendations for future research.

5.2 Conclusion of Findings

This study sought to assess ADR mechanisms and its outcomes over conventional conflict resolution mechanisms in Ghanaian companies; a comparative study of domestic and multinational companies. The study set out to answer four questions.

The first research objective was to assess the availability and practice of Alternative Dispute Resolution (ADR) as HRM practices for resolving conflict in Ghanaian organisations. The analysis of the results show that 84% of companies' interviewed practice one or more forms of ADR. Organisations and to a large extent, multinationals have adopted and integrated ADR as part of their policies in conflict management. Only 6% of respondents practice solely ADR. To a large extent, companies are adopting and integrating ADR when it comes to dispute resolution. There has been an industrial shift from the use conventional methods of resolving disputes to innovative methods. Organisations are formulating policies or regulations that are incorporating these mechanisms. Some organisations even hired external expertise to help draft procedures that were mutually beneficial to all stakeholders within the organisations and prevent conflicts from escalating or even go reach a point of litigation. The adoption of these practices are greatly influenced by the need to maximize output, since conflicts could lead to low employee morale, strikes resulting in decreased productivity. The increased adoption of ADR can also be linked to the state of the economy as well as the expensive nature of litigation.

Most employees who were embittered by the practices in the organisations wasted no time suing, either hoping for a huge cash out or for other unknown reasons. Organisations, to prevent the public nature of litigation would want to avoid it all cost unless absolutely necessary. Most respondents stated that the reason for the adoption of mutually beneficial practices was to mainly increase productivity by making employees feel they belonged and had a say as well as to prevent courtroom litigation especially in the era of the sophisticated clients. Granted that a few respondents did not know what ADR practices were, but when explained to them and examples given, they admitted to using them in their organisations. About 26% of all respondents stated that even though ADR methods were not enlisted in the firms' policies, some form of ADR mostly, negotiation was still used when the dispute called for it. This constituted informal ADR practices.

More companies are departing from old HRM practices in resolving disputes and to a greater extent, adopting alternative ways. Relatively newer companies adopt ADR practices more than older companies. This is due to the fact that these organisations were willing to look outside of their policies when the dispute called for them. The results further showed that 15 out of 20 organisations interviewed practiced a hybrid system. This is where traditional methods are used in conjunction with ADR. About 65% of respondents practiced mediation and negotiation in addition to conventional methods such as grievance procedures and queries. 27% practice negotiation in addition to conventional methods and 21% used arbitration when conventional methods failed. From the study, to a large extent, companies are adopting and practicing ADR procedures whether they are properly so called.

The next objective was to assess the viability of conventional conflict resolution mechanisms in Ghanaian organisations. Three (3) organisations representing 16% of all organisations used only conventional methods. 94% of all respondents used conventional methods. Organisations that practiced both methods noted that they adopted ADR because the traditional methods made

employees feel alienated. They felt it was an “us versus them” system. Other respondents also stated that the results of using conventional methods were almost always predictable and employees who felt they knew the outcome of the dispute settlement procedure before the process was started failed to come forward and go through it. This in some cases eventually led to either violent outbursts of frustration or decreased productivity among others overtime due to build up frustrations. Firms that practice only conventional methods admitted that parties left the dispute resolution process not satisfied with the results. And that both parties did not emerge happy. One party always felt his interests was not taken into consideration. These responses led to the conclusion that firms adopt ADR because their conventional methods of resolving disputes were not satisfactory, also, firms that used solely traditional means of resolving disputes such as grievance procedures admitted that their conflict management system, though I worked in most cases, it could be improved to encompass the interests of all involved in the process.

The third objective was to ascertain the outcomes of ADR mechanisms in both domestic and MNCs in Ghana. It was found that respondents unanimously had positive reviews of ADR. Respondents stated that parties leave the dispute resolution process satisfied and the processes are trusted more when employees feel their interests have been considered and met. Some respondents admitted that ADR comes with less degree of litigation and hostility as compared to old grievance procedures. Respondents also observed that it saved money in the long run because litigation arising from internal conflicts had significantly dropped. In ADR, parties typically play a greater role in shaping both the process and its outcome, and about 58% of respondents felt that they were using strategic functions when they sat down with disputants to discuss the disputes and what they wanted to achieve at the end of the process. Results show that organisations in most ADR processes, parties have more opportunity to tell their side of the story. Some ADR processes, such as mediation, allow the parties to fashion creative

resolutions that are not available in a traditionally. Other ADR processes, such as arbitration, allow the parties to choose an expert in a particular field to decide the dispute. Thus respondents noted that parties left the dispute resolution process feeling more satisfied since they contributed in the outcome and were more willing to abide by the outcomes and rules since they played a role in fashioning it. Most respondents said that ADR is a less adversarial and hostile way to resolve a dispute. For example, an experienced mediator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve. It also increased satisfaction and instilled trust of stakeholders in the process, since typically, there was no winner and loser. ADR helps the parties find win-win solutions and achieve their real goals. This, along with all of ADR's other advantages, increase the parties' overall satisfaction with both the dispute resolution process and the outcome. Majority of respondents whose firms practiced ADR said that employees were more comfortable with settling their disputes using these methods because there is no strict adherence to precedence.

The final objective was to find the similarities and divergence of ADR mechanisms in domestic and MNCs in Ghana. Out of all organisations interviewed, 47% were domestic companies, and 53% were multinational companies. There were trends that were common in either most domestic firms and different for multinational firms and vice versa and there were trends that appeared in both categories. Respondents generally agreed that ADR methods were generally more viable than conventional methods. Of both groups of companies, the most prevalent ADR methods used are mediation and negotiation with 63% of all companies adopting some form of mediation while 28% adopt negotiation. The set up and internal rules and management of a company indicate how their conflict management system is set up and works in both groups of organisations. Another similarity that stood out was that both multinationals and domestic companies used traditional methods to resolve disputes. Their policies, employee handbooks

and collective agreements provides for procedures that were traditionally used by personnel managers in resolving disputes. The study found a huge contrast between both companies when it came to unionisation. Multinationals were more unionised; that is, they had employees belonging to unions than domestic companies. 50% of multinational organisations had employees belonging to a union as against 0% of domestic companies belonging to a union. Multinational firms use ADR practices such as negotiations, principled mediation using internal mediators and switching to external when it failed, mediation using a panel of mediators without interest in the outcomes of the procedures, and finally a binding arbitration as a final step. Whereas domestic firms use primarily, negotiation to a small extent and mediation with the help of internal mediators. Another stark contrast found was the level of autonomy of the HR functions in both groups of companies. While HR in multinationals have to work hand in hand with unions representative and consulted management on major decisions relating to conflict management, HR in domestic companies work solo, and had more wiggle room to design conflict management systems. Due to this, disputes in multinationals are resolved relatively slower because of all the people involved and all the steps that have to be followed, while domestic companies spend far less time resolving disputes that occur.

5.3 Recommendations

From the conclusions drawn from the findings, the following recommendations were made to contribute to the adoption of innovative conflict management strategies in Ghanaian organisations.

This research indicated that while ADR processes are few in number, they do exist, and yet little research has been undertaken on them. Such study would richly contribute to knowledge in the field of ADR. Further comparative work researching ADR would also be useful.

Constant evolution of current and integration of new ADR practices is recommended in order to increase the dynamism of ADR process in Ghanaian organisations to avoid stagnation.

Further research into additional ways to incorporate diverse methods and cultural approaches to address conflict and disputes could be undertaken. Qualitative as well as quantitative exploration of employees experiences of the ADR process and types of training in the area of ADR that are available to HR personnel that they receive or would like to receive are some possible avenues.

5.4 Limitation of the study

The study is not without limitations. First, data were collected using a single respondent per company the HR manager or a high-ranking HR personnel in the HR department. This raises the usual challenges associated with a single respondent, including questions of bias and reliability. The interview method used makes it difficult to generate and standardise data. More time could have been spent through follow up interviews to increase the perception and experiences reported by the respondents. More time could have been spent interviewing more company to widen the scope and generate more data. Despite the limitations, the quality of data and inference generated from the study can contribute greatly and set the pace in literature on conflict management systems in Ghanaian organisations.

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APPENDIX

Sample interview guide.

1. Do you have dispute resolution mechanisms in this organisation?
2. What are the procedures in place in case disputes between the employer/management and employees arise?
3. What sort of dispute procedures are these and how long have they been in existence?
4. What are usually the outcomes of using these procedures in the dispute resolution process?
5. Do you practice alternative dispute resolution techniques?
6. What sort of ADR techniques do you adopt?
7. When are these ADR methods preferred to the conventional (mentioned earlier) methods?
8. What are the outcomes of using ADR techniques in resolving disputes?
9. In your opinion, would you say these ADR methods produce better outcomes than the conventional (or those that have been used over and over again) methods?