

An Empirical Study on Dispute Resolution Methods (DRM) from the Perspective of Employee and Employer: Special Emphasis on Alternative Dispute Resolution (ADR)

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ABSTRACT

In recent times, most of the parties involved in dispute resolution process are favoring Alternative Dispute Resolution or ADR over the formal adjudication process due to ADR's distinguished benefits. In order to reduce the backlog and pressure of workload, courts randomly select alternative ways to settle dispute. Therefore, a question can be raised how well ADR is working in reality? If a dispute is in existence between a company and an individual, the individual might not get a proper redress against an esteemed company. Moreover, there is a possibility of bias in favor of those who is in the superior positions. Though it was a courageous effort from the legislature and the judiciary to make the dispute resolution system compatible with the changing society, a question remains: how much upshot is there in the legal field? To what extent does the ADR process elude or ensure justice?

1. INTRODUCTION

Dispute is a natural and inevitable part of all social relationships. It may arise when interests of more than one person clash with other or when there is a disagreement between two or more parties regarding differences of opinions. Professor J.G. Merrills defines 'dispute' as a specific disagreement concerning a matter of fact, law or policy in which a claim or assertion of one party is met with refusal, counter-claim or denial of another¹. In order to resolve dispute, a number of countries have introduced various methods in their legal system in the form of Alternative Dispute Resolution (ADR). Notwithstanding the fact, it is not a replacement for adjudication but a complementary mechanism to reduce the work load or pressure on the courts². It also does not mean the 'second-best' process for settling dispute. In the legal system of Bangladesh, ADR has been introduced in 2003 by the amendment of the Code of Civil Procedure, 1908 under sections

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89A, 89B and 89C and in chapter V of the Artho Rin Adalat Ainn 2003³. Almost seven years have elapsed after the introduction of ADR in our legal system in order to settle dispute. Despite, official figures on the achievement of ADR is available either at the Ministry of Law and Parliamentary Affairs of Bangladesh or Supreme of Court of Bangladesh. It is to be stated that without substantive reports and statistics from the respective courts it is very difficult to predict how successful the new system of ADR is and what needs to be done further to develop the system⁴. It is evident that while resolving disputes through ADR, a powerful disputant party may use force, not necessarily physical force, but aggressive persuasion to create social or structural pressure and influence the parties to resolve existing disputes. On the other hand, while resolving dispute third party might have some interest, but not on the dispute itself. The third party works as a pressure factor and may not be neutral. Nevertheless, it is not uncommon for disputes resolved this way may reemerge in the future. It is true that in order to resolve disputes no one can compel others to go through the option of ADR process or civil litigation process. So people have both the option in order to get civil redress. Courts may encourage the party to go for the ADR process but courts have not been given power to impose penalty or measure against the unwilling party who would not like to go through the ADR process.

The study ultimately focuses on – why do disputant parties mutually like to go in alternative process or litigation process? Why do they like to go through ADR process? What is the reason behind it? To what extent can the parties move freely? Whether do they have same perception or various opinions to resolve dispute through ADR? What are the impediments of ADR for resolving dispute?

2. OBJECTIVES OF THE PAPER

The main objectives of the work are to know the present scenario of ADR process and how effectively it is working. It is also designed to address the following issues:

- What is the main perception of employer and employee regarding ADR process of the disputant parties?
- What is the impediment of ADR for resolving disputes?
- To find out the reality for solving dispute through ADR.
- Is there any duress by either of the disputant parties to resolve dispute through ADR?

3. METHODOLOGY

The study has been conducted mainly on the basis of primary evidence. Two sets of questionnaires were designed to collect data for the survey in the Ready-made Garments (RMG) factories situated in Dhaka, Gazipur, Savar and Chittagong in Bangladesh. The questionnaires have been prepared, one for employers and the other for employees. Both questionnaires were of similar standard for the purpose of comparing and sharing their views. The target group identified by the study was garments factories, where disputes are common between employers and employees. The data have been collected by final year LLB (Hons) trained students of the Southeast University, Dhaka. And they were collected in 2010 when the dispute was common in this sector and finally Government has increased RMG worker salary Tk.1600 to Tk. 3000/=. But no distinction was made whether the firm has Labor Union (LU) or Labor Welfare Committee (LWC). From the field work it was unveiled that the most of the employers are aware of Labor Union in their respective company. But, Labor Unions are generally in favor of Labor Welfare Committee.

The study also delves into the secondary sources as well. Data were collected from various sources viz. national and international public and private documents, refereed journals, newspapers, books, etc.

4. LITERATURE REVIEW

The procedural laws, enacted more than a century ago, were clearly based on the late nineteenth century *laissez-faire* notions of legal rights and rigid avenues for redress of violations, hence, every individual was left to defend for himself and the state only provided the forum for dispute resolution as a third-party umpire. This “adversarial” notion of justice, in the backdrop of a very limited role of a non-welfare-colonial-state still ‘proudly’ defies all attempts at reform; or rather this dominant mode of understanding about litigation and dispute resolution does not even admit of any alternate role for state, law and courts. As a result, there had hardly been any effort to accommodate the issues, rights and concerns of those who had and have been left behind the legally *laissez-faire* state⁵. Justice Kamal recommended that like all innovative exercises, ADR needs a motivator or an army of motivators throughout the country. With too much formalism and too strenuous emphasis on the normative part of the law, the poor are left with virtually no access to formal justice and legal aid. Even the poor do not feel motivated to go to a formal court when they have the opportunity to do so to seek justice. In last few decades, “Rule of Law”, which is defined as equal treatment for every citizen under the law, equal legal protection and accessible

justice has become an integral element of Good Governance⁶. The establishment of a society based on rule of law demands a set of strategies or ideas and in order to support these ideologies and strategies, the “rule of law orthodoxy” was introduced. It is an instrument, an institution, a tool “...geared toward bringing about the rule of law”⁷. However, in recent years, it has been seen that this concept is not working effectively.

The problems of the present rule of law orthodoxy are many folds. First, based on a top-down approach, it solely concentrates on state-dependent legal institutions building or rebuilding courthouses, constituting legal reforms, training of judges, lawyers, etc. As a result, though the supply side is well equipped, the demand side is often not even touched. If a legal system depends only on the formal structure and ignores counseling, mediation, negotiation and other forms of non judicial representation³, the door to justice may be locked for many. Formal system must work hand in hand with the informal sector in a comprehensive manner and to make it work a close look at both of them is necessary. It is often argued that poor people tend to use informal systems in Bangladesh because the access to justice through formal legal system is troublesome and faulty. Several recent studies have also indicated that majority of rural people get access to justice through the non-formal systems^{8,9}. The problems related to access to justice in formal systems has two dimensions. The first one is to identify the hurdles that hinder the access to court;¹⁰ the second dimension is rarely touched. Anderson put it in this way “access to justice required more than being able to present a grievance in front of a court, or before a mediation panel, crucially provided your claim is recognized as legitimate, access includes an effective remedy whereby your right is translated into reality”¹¹. Thus, the problem lies in “translating right into reality”. The formal system often fails to find the effective remedy or in other words, remedy to the court is many times quite unacceptable to common people. The very word “justice” has two different meanings – rather than going by the book, the poor often prefer justice to be either realistic or harmonistic. To facilitate commercial arbitration, most countries have enacted legislation based on the Model Law on International Commercial Arbitration, published in 1985 by the United Nations Commission on International Trade Law. This law makes arbitral awards legally binding, grants broad rights to commercial parties in choosing how they will arbitrate disputes, and directs courts to overturn awards only in the narrowest of situations. To serve their members, chambers of commerce in many countries e.g. Argentina, Colombia, have established commercial arbitration centers. The centers resolve cases more quickly and cheaply than if they had been taken to court. Moreover, the courts in these countries are becoming more comfortable with arbitration and so resisting the temptation to second-guess arbitration

awards. Community-based alternative dispute resolution is also getting common. It builds on traditional models of popular justice that rely on elders, religious leaders, or other community figures to help resolve conflict. In the 1980s India embraced “lok adalats”, village-level institutions where trained mediators seek to resolve problems that earlier would have gone to councils of village or caste elders. In the Philippines the leader of the local “barangay”, or neighborhood, tries to resolve minor disputes between residents. In Latin America the “juece de paz”, an officer of the state, can use informal procedures to conciliate or mediate small claims. Although disputes have been resolved through means other than litigation for thousands of years, it is well established that an ADR boom took place in the United States beginning in the 1970s.¹² Inspired by concerns about efficiency, access, and justice, ADR advocates urged that disputes be resolved, not only in public trials, but also through negotiation, mediation, and arbitration.¹³ The growth of ADR also sparked a series of significant critiques by people concerned with the privatization and informalization of dispute resolution. They argue that the privatization of dispute resolution is problematic because the elaboration of law achieved in public trials and published decisions are necessary to protect and enhance individual rights¹⁴. Similarly, some critics urge that treating disputes as matters of individual, rather than public, concern eliminates important public accountability¹⁵. While supporters of ADR have responded to these critiques, few commentators have defended ADR on the ground that it enhances the rule of law. The strength and appeal of the rule of law critique should not be underestimated. In the United States, even many of ADR’s staunchest advocates recognize that there are circumstances in which disputes are better resolved publicly, through litigation, rather than through negotiation, mediation, arbitration, or some other private means¹⁶. Recent research in India confirms that this is happening in some “lok adalats”. Many claimants are poor people who cannot wait years to receive compensation for motor vehicle accidents or for being wrongfully fired or laid off. Reformers introducing a combined program of alternative dispute resolution and improved case management must therefore monitor the effectiveness of the case management reform to avoid abuse of the alternative dispute resolution element¹⁷. Susan Sturm has recently urged that we rethink our core assumptions about ADR. She argues that non-litigation dispute resolutions need not always be private and that conciliatory approaches can enforce disputants’ legal rights and inculcate social norms. Given the links between ADR and litigation, and the important role played by societal norms, advocates of both ADR and litigation have a tendency to be unrealistically optimistic regarding the possible benefits of either approach. By examining the international blending of ADR and rule of law efforts, it can be better understood the cultural, economic, and social limits that potentially constrain progress when either approach is used alone. Again it has been begin to

understand how blending ADR and the rule of law yields a more just dispute resolution system than either single approach can. Limits to the Traditional Rule of Law Approach as has been thoroughly discussed in the academic rule of law literature, there seem to be limits on the extent to which traditional rule of law projects, particularly those imported from other countries, can fundamentally change a country's approach to law whether the goal is to eliminate corruption, increase access to justice, promote transparency, or protect individual rights, it is clear that providing judicial training and modernizing courthouses may not be sufficient to change a legal culture¹⁸. Professor Rosa Ehrenreich Brooks and others have analyzed how entrenched legal norms impede rule of law efforts. A number of scholars have emphasized that the rule of law is an inherently western construct and that persons in countries with different cultures and histories, such as China, may not share the perspective that increasing the role of formal law is the best way to create a just society. Further, countries may be unable to provide effective access to litigation due to their limited resources. To the extent that a culture of corruption exists, mediators and arbitrators could fall prey to the same temptations as judges. Even though mediation does not result in resolution unless all of the disputants come to an agreement, a corrupt or biased mediator could still have a significant impact on that resolution. The private setting of ADR may also enhance existing corruption problems. Proponents urge that transparency and public access are important ways to fight corruption and bias, yet ADR is typically conducted privately. Second, although it is often true that ADR is less expensive than litigation, this does not necessarily mean that providing ADR solves problems of access to justice. Depending on the type of ADR and the quality of the results, ADR may not provide access to justice. If the ADR process is biased and unfair, there may be no justice at all. Third, to the extent that rule of law projects establish significant ADR programs in the absence of effective accessible litigation, whether such programs can truly provide justice is unclear. ADR Typically works because it operates in the shadow of an effective litigation system¹⁹. However, to the extent that the effectiveness of ADR relies on the existence of such social norms and pressures, it is unclear whether ADR alone can ensure justice or resolve social inequalities. Empirical investigations may teach us how to blend formal and informal justice systems. While a full study is beyond the scope of this Article, India and Japan offer intriguing possibilities. In India, substantial efforts have been made to informalize the justice system to provide greater access to justice. A number of analysts have criticized these attempts, urging that they ultimately do not serve the purposes for which they were designed²⁰. But at least one analyst suggests that Japan's concerted effort to rely more extensively on conciliation and other informal means of dispute resolution has been effective²¹. The courts in Bangladesh are overburdened with cases. Shortage of judges and courts make the problem more acute. Increasing

the number of judges and courts requires time and money. The public and private universities are not producing enough law graduates to meet the shortage of judges and lawyers. According to records, about 750,000 cases are pending with the courts of judicial magistracy. The Supreme Court sources say about 500,000 cases, both civil and criminal, are pending with its Appellate Division and at least 300,000 other cases, including writ petitions, are pending before the High Court Division²². The failure of the formal legal systems to understand the mismatch between the peoples' perception of justice and the justice as offered by the formal rule of law may well be forcing the poor to move towards the informal legal system. The poor may confront a psychological barrier to go the formal court. In this connection the study strives to see the differences between the perception on ADR from the point of view of poor and rich i.e. employees and employers.

5. ANALYSIS

Simple statistical techniques like frequency distribution along with percentage were obtained to check for data entry errors (e. g. unrecognized or missing codes) and to obtain descriptive statistics mean and standard deviation were also obtained from the frequency analysis. To determine whether a significant association exists between binomial variables (e. g. education level and type of DRM chosen), cross tabulation analysis and chi-square test were performed. To determine the crucial factors that influence the length of stay with a DRM, t-test and F-tests were performed. T-tests were used to test for significant differences on client satisfaction and perceptions of overall service quality between tenure of the company and users of ADR and adversarial process. One-way Analysis of Variance (ANOVA) was also used to test for differences in the ratings when more than two groups (e. g. job category and education categories) were involved. Chi-square, F values, Cramer's V and "p" value were considered in testing hypothesis.

6. RESULTS/FINDINGS

Respondents were asked to indicate factors that influence their selection of particular types of DRM. Ten major reasons influenced their choices. Influential factors are shown in Table-1 with their respective frequencies. It can be found that existence of labor union (most of the cases known as labor welfare committee instead of labor union) obtained the highest percentage (21.75%). Whereas, duration of the existing company has 16.24% frequency holding the second position as influential factors. Interesting to note that, influence of the

management (0.8%) has a very poor impact in determining dispute resolution method.

TABLE 1
FACTORS INFLUENCING THE DISPUTE RESOLUTION METHOD

| Reasons for choice | Frequency | Percentage |
|-------------------------------------|-----------|------------|
| 1. Duration of the existing company | 122 | 16.24 |
| 2. Concept about ADR | 91 | 12.11 |
| 3. Existence of labor union | 162 | 21.57 |
| 4. Flexibility | 117 | 15.58 |
| 5. Transparency | 87 | 11.58 |
| 6. Acceptability | 96 | 12.78 |
| 7. Influence of the labor union | 14 | 1.86 |
| 8. Cost | 22 | 2.93 |
| 9. Concept about labor court | 34 | 4.53 |
| 10. Influence of the management | 6 | 0.80 |

Source: Own Survey, May, 2010

Note: generally, a combination of ten factors generally influences dispute resolution method.

16.24% of the total respondents suggested that people chose their DRM according to the duration of the operation of the existing company. From the Table 1 it can be observed that this factor holds the most influential second position which necessarily means, if the company is operating for a long period of time, there is a possibility that people have become more familiarized with the DRMs.

Analysis shows that clients don't have a massive response (10.12%) on choosing DRM on the basis of the influence of the labor union, cost, concept about labor union and influence of the management. It is also observed that concept about ADR has more or less same influence (12.11%) as people are getting more and more familiarized with the concept of alternative methods. Illiteracy and unawareness of using DRMs may even be another prime reason showing small response (12.78%) of the clients towards this influential factor.

Flexibility also has a large influence (15.58%) in DRM selection. Because people want to be flexible both at their workplace and outside flexibility is desirable by the respondents. Due to poor economic condition, the people (3%) prefer ADR over courts charging the low service cost, but still, people do not have very clear idea whether ADR is actually less costly or not. Most of the people are price conscious in our country and don't want to pay more for a service, therefore, efforts are to be made so that people can avail this (ADR) low cost services.

To observe the association between nature of clients (employee/employer) and DRM type (Table 2), analysis shows that both employee and employer prefer ADR than courts. The reason may be less costly and flexibility of the process. Another reason may be the cost of operation with the DRM process. A significant number (103 out of 258) of non-respondents were found in this issue. The likely cause of this, deduced from qualitative interviews, is that, the respondents who are taking services do not have clear perception about the DRM process.

TABLE 2
ASSOCIATION BETWEEN NATURE OF CLIENTS (EMPLOYEE/EMPLOYER)
AND DRM TYPE

| <u>DRM type</u> | Client type | | |
|-----------------|-------------|----------|-------|
| | Employee | Employer | Total |
| ADR | 84 | 23 | 107 |
| Courts | 31 | 17 | 48 |
| Non-response | 60 | 43 | 103 |
| Total | 175 | 83 | 258 |

Source: Own Survey, May, 2010

Note : non-response means either they go for ADR or they did not response regarding their choice of ADR and Courts even though they have gone for ADR.

Following set of hypothesis was tested to assess the association between nature of clients (employee/employer) and DRM type:

H_0 : There is no significant association between nature of clients (employee/employer) and DRM type.

H_a : There is significant association between nature of clients (employee/employer) and DRM type.

Table 2 indicates that a relationship between client type and DRM type selected was strongly supported ($\chi^2 = 10.149$, $p = 0.006 < .05$, Cramer's $V = 0.20$). The results suggested that employees are more likely to choose ADR (84 out of 107) while employers are reluctant (17 out of 83) about ADR.

To assess the association between tenure of the company and DRM type (see table-3), statistical analysis like cross-tabulations and chi-square tests were conducted. Moreover, following hypothesis was tested by chi-square, Cramer's V and p -value.

H_0 : There is no significant association between tenure of the company and DRM type

H_a : There is significant association between tenure of the company and DRM type

Research has shown that among 257 respondents (one of the respondents was non-response) 174 are from the companies operating more than five years and 83 respondents are from less than 5 years. Table shows that urban respondents have more access to ADR services compared to their rural counterpart. This disparity is due to less-involvement of the people due to unawareness.

TABLE 3
ASSOCIATION BETWEEN TENURE OF THE OPERATION COMPANY AND
DRM TYPE

| <u>DRM type</u> | Gender | | |
|-----------------|----------|----------|-------|
| | >5 years | <5 years | Total |
| Court | 54 | 42 | 96 |
| ADR | 120 | 41 | 161 |
| Total | 174 | 83 | 257 |

Source: Own Survey, May, 2010

Note: 1 employee out of 258 was found as non-respondent regarding the type of DRM.

Table-3 indicates that the relationship between tenure of the operation of the company and DRM type selected was strongly supported ($\chi^2 = 9.690$ with 2 degrees of freedom, $p = .008 < .05$) depicts that respondents from companies operating with more than 5 years like ADR, whereas respondents with less operation tenure are in favor of courts. It was found at the time of interview that,

both respondents mostly like ADR due to its shorter response time and avoidance to long queue in the adversarial process.

Next set of hypotheses provide the idea about the association between education level and types DRMs

H₀: Education level and types DRMs are not related.

H_a: Education level and types DRMs are related.

Similar type of test between education and DRM type (Table-4) showed a statistically significant and no association between (Cramer V = .14) these two variables ($\chi^2 = 10.48, p = 0.23 > 0.05$). These results (See Table-4) indicate that education levels of the respondents have no influence in choosing between ADR and courts for dispute resolution purposes. For example, it can be seen from the Table that educated or others having higher education prefer ADR (47 and 4 in numbers) but side by side respondents with lower education like SSC or below (107 respondents) also prefer ADR. Since the better educated people are likely to be more knowledgeable about the ADR system and services in the country, their inclination is to select ADR over courts is higher. This suggests the conclusion that the comfort and flexibility of the courts' service must be assured. Moreover, the better educated are also likely to demand better services. Lower educated people are taking services from courts due to tradition, less use of technology and more trustworthiness.

TABLE 4
ASSOCIATION BETWEEN EDUCATION AND DRM TYPE

| Education level | | | | | | |
|-----------------|-----------------|------------|--------------------------|--------|--------------|-------|
| DRM | Primary or less | HSC or SSC | Graduate & post graduate | Others | Non-response | Total |
| Court | 3 | 50 | 41 | 0 | 2 | 96 |
| ADR | 2 | 107 | 47 | 4 | 1 | 161 |
| Total | 5 | 158 | 88 | 4 | 3 | 258 |

Next set of hypothesis was constructed to assess the association between job category and types of bank:

H₀: The job category and DRM type are not related.

H_a: The job category and DRM type are related.

There is a strong evidence of association was found ($\chi^2 = 69.29$, $p = 0.00 < .05$, Cramer's $V = 0.36$) between job category and types of DRMs. That means government service holders and private service owners prefer courts and ADR respectively. The same evidence is even found in Table-5 where out of 96 respondents in favor of courts, 48 are engaged in government services. The prime reason is that government's transactions are more of bureaucratic and rigid (e. g; salary or pension) are mostly done through adversarial process.

TABLE 5
ASSOCIATION BETWEEN JOB CATEGORY AND DRM TYPE

| Job category | | | | | | |
|--------------|--------------|------------|-------------------------|----------|--------|-------|
| DRMs | Non-response | Government | Private (not companies) | Business | Others | Total |
| Courts | 3 | 48 | 10 | 12 | 23 | 96 |
| ADR | 2 | 14 | 68 | 35 | 42 | 161 |
| Non-response | 0 | 1 | 0 | 0 | 0 | 0 |
| Total | 5 | 63 | 78 | 47 | 65 | 258 |

Business people are likely to choose ADR (35 out of 47) because they require prompt and other value added services which are better provided by the ADR than the adversarial one.

A set of hypothesis was developed to test the association between satisfaction ratings between ADR and Courts as follows:

H_0 : There is no significant difference between the satisfaction ratings between ADR and courts

H_a : There is significant difference between the satisfaction ratings between ADR and Courts

Additional analysis shows there is some significant relation between overall satisfaction of ADR and courts ($\chi^2 = 40.01$, $p 0.005 < .05$, Cramer s $V = 0.20$). Following Table (Table-6) shows the cross tabulation of overall satisfaction between courts and ADR.

TABLE 6
OVERALL SATISFACTION REGARDING PUBLIC AND PRIVATE BANK

| | Overall satisfaction from ADR | | | | | | | Total |
|--------------------------------|-------------------------------|----|---|---|----|-----|----|-------|
| Overall | Scale | 0 | 1 | 2 | 3 | 4 | 5 | |
| satisfaction from courts | 1 | | 3 | | 4 | 25 | 23 | 55 |
| | 2 | | | | 6 | 33 | 16 | 55 |
| | 3 | 9 | | 1 | 12 | 52 | 26 | 100 |
| | 4 | 2 | | 1 | 10 | 13 | 13 | 39 |
| | 5 | | | | 3 | 3 | 3 | 9 |
| | | 11 | 3 | 2 | 35 | 126 | 80 | 258 |

In the study of the satisfaction ratings Person's Correlation Coefficient was observed. Analysis shows that for both the cases there is a negative relationship exists between the variables under consideration ($r_{\text{court}} = -0.115$, $r_{\text{ADR}} = -0.075$). This means if a client is satisfied with the services of a DRM, they are unwilling to change that DRM. The more satisfaction rating is, the less is the number of DRM change. Interesting to note that, the degree of change for both the cases is poor but degree of change in court is higher than that of ADR. It necessarily means two things:

- a. A poor "r" value means people don't change their DRMs frequently due to transfer hustle even if they are dissatisfied with the services of that specific DRM.
- b. But change rate is negatively more in courts than in ADR ($r_{\text{courts}} = 0.115 > r_{\text{ADR}} = -0.075$) reflecting that clients are shifting their issues from courts more.

Following hypothesis was tested for the homogeneity of different means of the satisfaction ratings for choosing ADR and Courts:

H_0 : There are no differences among the several means of the satisfaction ratings.

H_a : At least one of the means is different from other means of the satisfaction ratings.

One-way ANOVA (Analysis of Variance) was used to test for statistical differences in the satisfaction ratings for courts between the different educational groups. A significant difference was found in choosing courts between different

educational groups (for Education groups $F_{4, 257} = 3.179$, $p = 0.014 < .05$ and for income groups, $F_{4,257} = 0.137$, $p = 0.782 > .05$) means at least one group mean was statistically different ($p = 0.014 < .05$). Same analysis for ADR shows that there is no significant difference that was found (for Education groups $F_{4,257} = 0.048$, $p = 0.999 > .05$ and for income groups, $F_{4,257} = 0.741$, $p = 0.583 > .05$).

Further analysis was conducted to test for statistical differences in the satisfaction ratings for courts and ADR with respect to tenure of the operation of the company. The analysis shows that, there is no significant differences (for courts $F_{1, 257} = 0.493$, $p = 0.483 > .05$ and for ADR, $F_{1,257} = 0.167$, $p = 0.683 > .05$) among the means of tenure of the concerned company. This means differences in the tenure of the company don't have any affect in satisfaction with a specific DRM (ADR or Court).

7. CONCLUSION

Between ADR and courts choice, clients are mostly considering ADR as it charges less service cost and time compared to courts but providing better services due to its trustworthiness too. Lesser number of courts may be another prime reason of not being preferred by the clients. To make ADR a success external monitoring by the government or public watchdog groups may be employed to ensure adherence to the minimum service delivery standards. To enhance a positive reputation of ADR, concerned parties may follow the strategies stated below:

- Do a lot of awareness building programs to the parties
- Carefully choose personnel who interact with the disputant parties
- Train personnel to interact well with the disputant parties
- Positive and societal marketing activities specially a person who is aware about the rule of law to build and project trustworthiness
- Design amenities to facilitate ADR
- Establish more formal system and specific guide line for controlling quality of the ADR process
- The experience of different countries in ADR could be useful.

To enact legislation is one thing and to put it into a practice is another. A well thought out plan of action is necessary to make ADR a success. The courts in Bangladesh are overburdened with cases. Shortage of judges and courts make the problem even acute. Therefore, ADR require huge attention for the sake of smooth running of the industrial and commercial sector of Bangladesh.

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- ¹ Merrills, J.G., 'International Dispute Settlement', Cambridge University Press (2000), p. 1.
 - ² Hasan, K.M., 'Introducing ADR in Bangladesh: Practical Mode', presented in the National Workshop on "Alternative Dispute Resolution: In Quest of A New Dimension in Civil Justice Delivery System in Bangladesh", organized by the Ministry of Law, Bangladesh, 31 October (2002).
 - ³ Act No. Voll of 2003
 - ⁴ Abdul Halim, 2010, The Causes of Popular Dissatisfaction with the Administration of Justice, American Law Review 729, 731 (1906)
 - ⁵ Justice Mustafa Kamal, 2005, ADR in Bangladesh, International Conference on ADR Effectiveness, Pakistan Law Commission.
 - ⁶ World Bank, 2002, Legal and Judicial Reform: Observations, Experiences and Approach of the Legal Vice Presidency, Washington D.C.
 - ⁷ Golub, Stephen, 2003, Non-State Judicial Systems in Bangladesh and the Philippines, Paper presented for the United Kingdom Department for International Development.
 - ⁸ Siddiqui, Kamal, 2000, Local Governance in Bangladesh: Leading Issues and Challenges, Dhaka, UPL
 - ⁹ Harold, Daphnie K. and Hassan, Mirza, 2006, Legal Empowerment Strategies in Bangladesh, Empowering Women and Poor People Through Legal Matters.
 - ¹⁰ Hasle, Lena, 2003/2004, Too Poor for Rights? Access to Justice for Poor Women in Bangladesh: A Case Study, MSC Human Rights.
 - ¹¹ Anderson, M., 2003, Access to Justice and legal Process: Making Legal Institutions Responsiveto Poor People in LDCs, IDS Working Paper 178.
 - ¹² Jean R. Sternlight, *Creeping Mandatory Arbitration: Is It Just?*, 57 Stanford Law Review. 631, 1661–65 (2005)
 - ¹³ Deborah R. Hensler, Our Courts, Ourselves: How the Alternative Dispute Resolution takes in action? UNDP, 2008
 - ¹⁴ Harry T. Edwards, Commentary, Alternative Dispute Resolution: Panacea or Dilemma, National Consultation Reports, UNDP, 2004
 - ¹⁵ Carrie Menkel-Meadow, Whose Dispute Is It Anyway?: A Philosophical and Democratic overview, New Law Journal, Arbitration and ADR Supplement, September 27, 2002. p. 1431.
 - ¹⁶ Menkel-Meadow, Whose Dispute Is It Anyway, supra note 5, at 2695
 - ¹⁷ Dunnet v. Railtrack plc (in administration) [2002] EWCA Civ 303; [2002] 2 All ER 850, New Law Journal, Arbitration and ADR Supplement, September 27, 2002.p 1431.
 - ¹⁸ Rosa Ehrenreich Brooks, *The New Imperialism: Violence, Norms, and the "Rule of Law,"* 101 Mich. L. Rev. 2275, 2283–89 (2003)
 - ¹⁹ Richard H. Pildes, *The Destruction of Social Capital Through Law*, 144 U. PA. L.

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- ²⁰ Marc Galanter & Jayanth K. Krishnan, *Debased Informalism: Lok Adalats and Legal Rights in Modern India*, in *Beyond Common Knowledge: Empirical Approaches to The Rule of Law* 96, 126.
- ²¹ Frank Upham, 1998, *Movement is Re-shaping Our Legal System*, 108 *Pennsylvania Law Review* 165, 170–85 (2003)
- ²² Law commission, 2007