



Evaluating Industrial Dispute Resolution Methods: An Empirical Study

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[Doi: 10.19044/esipreprint.6.2024.p415](https://doi.org/10.19044/esipreprint.6.2024.p415)

Approved: 22 June 2024

Posted: 24 June 2024

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Cite As:

Alam, S. M. S., & Chaity, N. S. (2024). *Evaluating Industrial Dispute Resolution Methods: An Empirical Study*. ESI Preprints. <https://doi.org/10.19044/esipreprint.6.2024.p415>

Abstract

Currently, parties involved in the process of industrial dispute resolution prefer alternative dispute resolution (ADR) to the adversarial process which requires an evaluation of ADR to infer how effective it is. Even though ADR has been implemented largely by apparel firms, studies to assess the effectiveness of ADR are scant. To assess the effectiveness of ADR as an industrial dispute resolution method (DRM), the study evaluated seven hypotheses using the Chi-square test and Cramer's V. Data were gathered from both employers and employees of apparel factories in Bangladesh using two different sets of survey questionnaires. The results showed that employees are more familiar with ADR processes if the companies are run for a long time. It has also been found that the presence of a labor union has been determined to be crucial in the selection of DRMs and workers advocate more for ADR than formal adjudication machinery.

Keywords: Industrial dispute, Dispute resolution method, Alternative dispute resolution (ADR)

Introduction

Disputes in industrial settings are found inevitable. Disputes may manifest if there are conflicts of interest among individuals and there is a disparity between parties concerning discrepancies of opinions. Everybody possesses a right to get access to the formal court for dispute resolution. However, many people cannot access the formal system because of geographical distance, high cost, lack of information, etc. In this context, the ADR has an instrumental role to play for those who are deprived of the spirit of justice for everyone. ADR has been very popular because it consumes less time, requires less cost, and is mutually beneficial. Now, the effectiveness of ADR needs to be evaluated based on empirical evidence. Against this backdrop, the study attempts to understand the status of ADR in terms of effectiveness compared to formal adjudication machinery. Many disputes arise between individuals and organizations that can be resolved without a formal judicial system. These disputes are resolved outside the court involving ADR.

Professor J.G. Merrills explained that disputes are specific differences concerning a fact, law, or legal measures where there is a claim of a party is negated and counterclaimed by the other party (Merrills and De Brabandere, 2022). In a disputant situation, a party with a higher power source may abruptly try to influence the other parties by exerting societal pressure which may be unethical and unlawful to resolve concerned disputes (Tyagi, 2021). Sometimes, any third party may have a stake in a particular dispute but not in the dispute itself. Therefore, the interfering third party might be biased. In such a situation it is not unusual that the resolved dispute would arise again later (Menkel-Meadow, Porter-Love, Kupfer-Schneider, and Moffitt, 2018). Moreover, in resolving disputes, parties involved are not expected to persuade others to select ADR or legal adjudication machinery (Kohlhoffer-Mizse, 2020). According to studies on dispute resolution, the employee-management relationship has an impact on western nations' choice of dispute settlement procedures (Chong and Zin, 2012). The influence of the industrial relations climate on the preferred procedural framework for resolving labor disputes may vary among nations due to institutional and cultural differences. If utilized properly and under the right circumstances, alternative dispute resolution (ADR) can be an effective and efficient technique for settling disagreements (Jones, 2006). ADR may take a variety of approaches, such as negotiation, conciliation, mediation, and various forms of arbitration. All ADR techniques share the traits of being faster, less formal, more affordable, and frequently less confrontational than a court trial (Sarker, Abedin, Osmani, and Nayan, 2022).

Bangladesh's textile and garment sector is a key contributor to the country's economy, and it is a vital player in the worldwide apparel and

textile market. According to the Bangladesh Garments Manufacturers and Exporters Association (BGMEA), Bangladesh is the second-largest apparel exporter in the world in the fiscal year 2022-2023, exporting clothing worth US more than \$42.613 billion (BGMEA, 2023). In more than 4,600 operational garment manufacturers, the apparel industry directly employs around 4.4 million people (BGMEA, 2022). The number of disputes is higher in the garment industry than in any other sector in Bangladesh (Uddin, Moniruzzaman, and Alam, 2022; Ansary and Barua, 2015). The RMG industry remains concerned about the lack of an effective system to guarantee the enforceability of the applicable regulations for upholding worker rights and ensuring workplace safety, which is supposed to lead to additional disputes between workers and employers (De Jong, Wiezer, De Weerd, 2016). Hence, the status of industrial relations and procedural preferences for labor dispute resolution would therefore be further investigated (Xie and Zhou, 2020).

While ADR has been very popular in the apparel sector of Bangladesh, empirical studies to assess its effectiveness in this sector are scant. It is expected that by filling this research gap ADR might be used as an effective tool of dispute resolution for the benefit of the workers. This study examines the reasons behind selecting ADR or legal procedure; incentives to follow ADR; the extent to which disputant parties can exercise liberty; and impairments of ADR procedures while resolving conflicts. The salient objectives of the study are: (a) to assess the present standing of the ADR procedures and how effectively it is functioning; (b) to understand the perceptions of employees and employers about ADR procedure; d) to identify the impairments of settling conflicts using ADR.

Section 2 of the paper presents the literature review depicting existing literature in the field of ADR development of research hypotheses. Section 3 is about study settings and methodology. Analysis and findings are illustrated in section 4. Discussion on the findings is described in section 5 while concluding remarks are made in section 6.

Literature Review

ADR is being used more and more because of the inherent weaknesses of formal court procedures (Ibrahim, Abubakari, Akanbang, and Kepe, 2022). It has also been found in the last decades that as an instrument of resolving conflicts, formal lawsuits are not working satisfactorily (Golub, 2007). The glitches in the existing rule of law are multi-faceted (Zhijie, 2020). The party with less power to influence generally faces substantial hindrances that deter them from entering into the formal system (Hasle, 2003). In several instances, it has been found that the outcome of the formal system is not effectively operative and objectionable to the deprived

workers. On the basis of the top-down method, the formal method involves legislative organizations aiming for legal improvements, engaging adjudicators, attorneys, etc. In this connection, the supply side is more or less organized but the demand side is not adequately organized. It is evident that reaching out to justice would lie behind if dispute resolution is just dependent on formal litigation management without resorting to ADR methods e.g., conciliation, counseling, and other non-formal representation (Artho Rin Adalat Ain, 2003). Studies showed that the formal adjudication system and informal system are supposed to be operative side by side (Ahmad, and Von Wangenheim, 2021).

The study conducted by Asadullah, Kashyap, Tiwari, and Sakafi (2021) revealed that individuals who have been deprived of justice tend to be engaged in informal dispute resolving methods as the formal legal systems are unusually cumbersome to enter into. Other studies also revealed that most of the individuals from rural areas like to enter into the conflict resolution system using informal methods (Al Faruque, 2021). In this connection, the ADR methods are expected to be more conclusive, less expensive, and quick. India introduced 'Lok Adalat' in the 1980s to facilitate ADR with well-trained arbitrators for settling industrial disputes. In the USA, ADR methods have been found existent since the 1970s (Sternlight, 2005).

ADR methods are available with different attributes. Mediations tend to be more participative but offer non-binding solutions, while arbitration delivers binding decisions. The time and cost required for ADR methods differ based on the ADR methods engaged and the procedure involved. Furthermore, ADR methods are substantially influenced by the parties involved. Therefore, the choice of an ADR method is critical and deserves careful attention (Siddiqui, 2000). ADR takes a complementary form to courtroom dispute resolution and varies from country to country (Illankoon, Tam, and Ranadewa, 2022). Each of the ADR techniques has unique benefits and drawbacks that apply in particular situations. According to an empirical study by Cheung, Suen, and Lam (2002), disputants are primarily concerned with benefits such as a quick conclusion, low cost, and preservation of relationships when choosing a good dispute resolution process. The rapid growth of alternative dispute resolution (ADR) processes, such as conciliation, mediation, adjudication, and other hybrid processes, has been prompted by the perceived shortcomings of formal litigation and the corresponding rise in costs and delays (Illankoon, et al., 2019, Cheung et al., 2002).

The history of the practice of ADR is not free of criticism for its informal nature of dispute resolution. Critics identified that resolving disputes outside the courts is much challenging and sometimes questionable

because the explanation of laws obtained is considered essential for defending and establishing the rights of individuals (Giabardo, 2020). Accountability to the public may not be acclaimed if dispute resolution is considered as an individual issue instead of a community matter (Menkel-Meadow, 2018). Different critics suggested reforms by initiating a joint program of ADR and formal administration to minimize any misuse of ADR (Albert, Olarinde, and Albert, 2019). Krishna (2014) argued that many studies revealed that ADR may not serve the expected purpose for which it is proposed.

In reality, the courts are overburdened with cases relating to industrial disputes. Moreover, the shortage of adjudicators has made the situation even more intricate. It has been revealed from several studies that the failure of formal adjudication machinery and the disparity between aggrieved parties' perception of and justice deduced by the official rule of law might lead to the use of ADR. However, the challenges of using ADR concerning the nature of workers, the culture of the organization, the education level of workers, and satisfaction ratings among employees/employers have not been properly addressed by previous studies (Kalabamu, Faustin, 2021). Thus, the current study endeavors to examine the discrepancies amongst the perceptions from the point of view of the poor and rich namely employees and employers.

The nature of workers (employee/employer) and DRM type

While understanding the applicability of ADR, the employment status of the parties involved was not taken into consideration properly. Baranik et al., (2019) and Szulc and Smith (2021) depicted in their study that the employee-employer relationship has a substantial impact on the settlement of disputes using. The study by CRR Global (2019) revealed that the employer-employee relationship plays a substantial role in increasing the efficiency of the DRM types, especially ADR. It has also been found that the settlement of disputes is significantly expedited by the employee-employer relationship leading to a higher level of organizational productivity (Pollyn, 2022). In this connection the following hypothesis has been proposed:

H₁: There is a significant association between the nature of workers (employee/employer) and DRM type.

The tenure of operation of the organization and DRM type

Conflict management strategy in relation to DRM is to a great extent dependent on the tenure of operation of the organization. The study conducted by Martins, Taiwo, Francis, and Kelvin (2023) illustrated that the collaborative attitude of the management increases as the organization goes

through the continuous learning process. The study also claimed that the accommodating approach of both employees and employers is substantially influenced if the organization is in operation for a longer period. A quick solution to the industrial dispute might be possible if the culture of applying ADR in the workplace is in place (Ojo, 2023). Hence, the following hypotheses are attempted to be evaluated empirically:

H_{2a}: There is a significant association between the tenure of operation of the organization and DRM type

H_{2b}: At least one of the means is different from other means of the satisfaction ratings regarding the tenure of operation of the organization and DRMs.

Education level of workers and types of DRMs

Ranasinghe (2012) studied the applicability and efficiency of ADR and they found that there is a positive correlation between education level and outcomes through ADRs. Effective utilization of ADR is also found to be influenced by the education level of workers and the type of disputes (Hapuarachchi and Udayangani, 2022). Workers with higher levels of education are involved in minor disputes and prefer ADR whereas illiterate workers with lower education levels cause a large number of disputes at greater complexities that call for a formal adjudication system (Illankoon, et al., 2022). To evaluate the association between education workers' education level and the choice of DRM empirically, the following hypotheses have been formulated:

H_{3a}: Education level and types of DRMs are related

H_{3b}: At least one of the means is different from other means of the satisfaction ratings regarding education level and DRMs.

The category of jobs (Government/private) and type of DRM

The choice of the DRM is found to be dependent upon the nature of the organization (Dukes and Streeck, 2020). Workers of public organizations are more involved in unions and in many cases, unions provide legal aid to the members of the unions. Therefore, they have an inclination to go to court (Sigafos and Organ, 2021). In contrast, ADR is promoted largely by the management of the private organizations and unions are not encouraged in the private organizations. Workers in private organizations show a higher level of tendency to resolve disputes using ADRs (Araujo, Safradin, and Brito, (2020). Hence, the following hypothesis has been sought:

H₄: The category of jobs (Government/private) and type of DRM are related

Satisfaction regarding ADR and Courts

In the context of access to justice, workers are more satisfied with ADR than the formal justice system. However, it has been explored that not in all situations, ADR is applicable. Both parties are to be careful about selecting the mode of dispute resolution methods. Satisfaction regarding ADR and Courts largely depends on whether the objectives of justice have been addressed or not (Noone and Ojelabi, 2020). The satisfaction of the parties is affected by the control over the access and procedures related to the mode of DRM (Ojelabi, 2019). To test the difference in the satisfaction level between ADR and courts the following hypothesis has been formulated:

H₅: There is a significant difference between the satisfaction ratings between ADR and Courts

Methodology

For developing questionnaires, the recommendation provided by Churchill (1979) was followed and two sets of questionnaires and scales have been established. At first, open-ended questionnaires were devised to acquire insights regarding dispute resolution methods concerning ADR. The devised questionnaires were then scrutinized by reputed academicians and professionals of the legislative bodies. After incorporating the comments of the experts, the final questionnaires were found to embrace with five-point Likert scale. A pilot survey has been carried out to evaluate the lucidity, reliability, and validity of the items of the questionnaires. The appropriate changes were also made after getting responses from the pilot survey.

Sampling frame and sampling technique

The population of the survey was comprised of senior executives/union leaders of the organizations who are engaged in dealing with industrial relations between employees and management. The sample units are firms that are full members of the Bangladesh Garments Manufacturers and Exporters Association (BGMEA). To examine the perception of the respondents, the study sample was selected from the BGMEA member firms in June 2021. Thirty (30) firms were selected out of 453 member firms. The researchers conducted a face-to-face interview to collect data from the respondents. Two separate sets of survey questionnaires have been used to collect data from employees and employers respectively in the readymade garments (RMG) factories. Since a large number of RMG factories of different categories are situated in the areas of Dhaka, Gazipur, Savar, and Chittagong in Bangladesh, the study considered these areas as the sample frame. Target respondents were identified from the RMG sector because industrial disputes are very common to find in the RMG sector. It was

revealed from the investigation that both employees and employers are aware of the existence of labor unions in the industry. From the fieldwork, it was unveiled that most of the employers are aware of the Labor Union in their respective companies. To understand the nature of the data descriptive statistics has been determined. For evaluating the association between variables, the study employed crosstabulation and chi-square tests, and Cramer's *V*.

Analysis and findings

Upon questionnaire survey, respondents were requested to identify factors that affect their choices against particular types of dispute resolution methods (DRMs). The most influential factors are presented in Table-1 along with corresponding frequencies. It has been found that the existence of labor unions plays a key role in the case of the choice of any DRMs with 21.57% among respondents. Respondents identified the duration of the operation as the second factor with 16.24% frequency. The findings revealed the fact that if the firms are being operated for a long period, workers become more acquainted with DRMs.

Table 1: Factors Influencing the DRMs

Reasons for choice	Frequency	Percentage
Existence of labor union	162	21.57
Duration of the existing company	122	16.24
Flexibility	117	15.58
Acceptability	96	12.78
Concept about ADR	91	12.11
Transparency	87	11.58
Concept of Labor Court	34	4.53
Cost	22	2.93
Influence of the labor union	14	1.86
Influence of the management	6	0.80

On the basis of the effects of the labor union, cost, and influence of firm administration 10.12% opined in favor of choosing DRMs. According to data analysis, about 12.11% responded in favor of the awareness regarding ADR in selecting DRMs against formal adjudication machinery. It is perceived that the flexibility of ADR was influenced largely while selecting DRMs with 15.58% responses since ADR is expected to provide substantial flexibility over formal litigation in terms of time and money. It is quite astonishing that only 3% of responses have been recorded in terms of charges for dispute resolution. The reason behind this low response may be low awareness about the cost of the ADRs and whether settling disputes outside the courts is less costly or not. A large number (103) has been recorded to be nonresponse while comparing ADR and courts. Further

investigation revealed that many of the workers do not have ideas about the distinct advantages of ADR.

Table 2: Association between the type of parties (employee/employer) and DRM type

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

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

The findings suggested that employees are more eager to engage in ADR than employers (84 out of 107) while employers are found to be unwilling to be engaged in ADR (17 out of 83). Data analysis reveals that worker type and selection of DRM type have a significant relationship ($\chi^2 = 10.149$, $p = 0.006 < .05$, *Cramer's V* = 0.20). Thus the data analysis supports H_1 .

It is shown in Table 3 that about 257 out of 174 of the respondents are from corporate houses with more than five years of operation whereas 83 of them are from firms with less than five years of operation. Further investigation also revealed the fact that workers from metropolitan are more engaged in ADR than that of rural areas. The relationship between the tenure of operation of firms and the DRM type selected has been substantiated by data analysis ($\chi^2 = 9.690$ with $df = 2$, $p = 0.008 < 0.05$) supporting H_{2a} .

Table 3: Association between tenure of the operation of firms and DRM type

DRM type	Gender		Total
	≥ 5 years	< 5 years	
Court	54	42	96
ADR	120	41	161
Total	174	83	257

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

The hypothesis H_{3a} (Table-4) has been evaluated and found to be not significant and indicating no significant association between education level and types of DRMs ($\chi^2 = 10.48$, $p = 0.23 > 0.05$; *Cramer's V* = 0.14).

These results (Table 4) reveal that the education levels of the respondents have no effect in selecting between ADR and courts for dispute settlement purposes. For example, it can be understood from the table that workers having higher education prefer ADR but side by side workers with lower education levels like SSC or below (107 respondents) also prefer ADR. Since educated workers are likely to be more well-informed about the

ADR method, their inclination to choose ADR over courts is higher. This advocates the supposition that the ease and flexibility of the courts' services must be assured. Moreover, well-educated workers are also expected to claim better services. Less educated workers are taking services from courts due to tradition, less use of technology, and more dependability.

Table 4: Association between education and DRM type

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

Data analysis revealed a significant association between the category of jobs and type of DRM (H_4) having $\chi^2=69.29$, $p=0.00 < 0.05$, and *Cramer's V*=0.36. Thus, it can be interpreted that workers in the government sector and workers in the private sector workers are interested in courts and ADR respectively. The evidence is depicted in Table 5 where 96 respondents are found to be in support of courts, and among them, 48 are from the government sector.

Table 5: Association between job category and DRM type

DRMs	Job category					Total
	Non-response	Government	Private (not companies)	Business	Others	
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 workers are likely to select ADR (35 out of 47) as they require quick services which are better provided by the ADR than the adversarial one. Based on data analysis, it is revealed that there is a statistically significant difference between ADR and courts in terms of overall satisfaction ($\chi^2=40.01$, $p=0.005 < .05$, *Cramer's V*=0.20) supporting H_5 . The cross-tabulation for overall satisfaction scores has been depicted in Table 6.

Table 6: Overall satisfaction regarding formal litigation and ADR

	Overall satisfaction from ADR (frequency)							Total
	Scale	0	1	2	3	4	5	
Overall 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

One-way ANOVA (analysis of variance) was performed to test for differences among the satisfaction scores for courts concerning different educational categories (H_{2b} and H_{3b}). From the data analysis, the considerable variance was predictable while selecting a formal litigation system amongst various educational groups ($F=3.179$, $p\text{-value}=0.014<0.05$). The result signifies that at least one group mean was significantly unlike. The ANOVA test performed for ADR reveals that there is no significant difference in this regard ($F = 0.048$, $p\text{-value}=0.999>0.05$). Another ANOVA test was performed to assess the variances in the satisfaction scores against courts and ADR concerning the tenure of operation of firms. The data analysis revealed that there are no significant differences (for courts $F=0.493$, $p\text{-value} =0.483>.05$ and for ADR, $F=0.167$, $p\text{-value} =0.683 > .05$) amongst the means for the length of operation of the concerned firms. Thus, it can be concluded that differences in the length of operation of the concerned firms do not affect satisfaction with a specific DRM (ADR or Court). It has been identified that underprivileged workers may not be interested in formal litigation procedures when they might have the opportunity to resolve disputes outside the courts (Patoari et al., 2020).

Discussion

It has been found that both individuals and organizations are in favor of informal conflict resolution because it allows them to avoid expenses, delays, and potential harm to their reputation (Xie and Zhou, 2020). The study found that depending on the type of work settings (Government/private), the selection of DRM is significantly influenced by the labor unions. The study conducted by Illankoon, et.al. (2022) found a similar result in Srilanka that Government workers are more prone to move to ADR influenced by labor unions. Negotiations between the parties would be supported by a transparent and accountable trade union with proper participation from both the employees and employers. To protect workers' rights, it is absolutely crucial to offer these facilities (Sarker, et al. 2022).

The results of this study are in line with the study of Kisi, Lee, Kayastha, and Kovel (2020) revealing that in those firms operating for a longer period, workers become more acquainted with the concepts of ADR and consequently go for different forms of ADR. It has also been found from the investigation that workers like ADR due to the shorter time required for settling industrial disputes (De Ville, 2006). Lee, Yiu, and Cheung (2016) confirmed that one of the primary variables directly influencing the choice of the ADR technique is the settlement time. The Asian region has the longest average dispute resolution time, at roughly 19.5 months, significantly longer than the global average of 15.5 months.

It has been found that workers' institutional education level does not significantly affect the selection of DRMs. While lack of experience, understanding, and professional attitude toward conflict management can help select the appropriate method of DRM. Hence, researchers emphasize that educating and training workers by specialist corporate bodies might encourage workers to gain the benefits of ADR (Ezulike and Hoare, 1998). Studies have found that there is substantial evidence of positive and immediate impacts on the workers who were involved in the ADR procedure compared to those who have gone to court without being involved in ADR. ADR is expected to improve positive perception among the parties involved along with an enhanced sense of empowerment and satisfaction regarding the settlement of disputes. Moreover, disputes settled with the help of ADR are found less prone to return to formal adjudication systems (Pereira and Correia, 2020). ADR has been found more accepted by respondents due to its long history and widespread use in the field (Chong and Zin, 2012). In most cases, workers do not like the formal litigation process since it is more bureaucratic and clumsier to deal with. Similar findings have also been found in the research conducted by Price (2018). It is becoming crucial to be there for a productive communication channel to resolve disputes. Between workers and managers, participative management is necessary. Studies also argue that to avoid labor crises, organizations should establish long-term employment benefits packages and human resource planning (Hossain, Sarkar, and Afrosze, 2012).

Implication of the study

This study is significant in several ways. First, managers in all business organizations will benefit because conflict is now a common and frequent aspect of business organizations. Managers will be able to determine how disputes will be mitigated since they cannot be avoided by looking into the causes of organizational conflicts. Additionally, by looking into the origins of disputes, the study will be able to establish why they keep happening. The study will also be able to determine the tactics' limitations by looking at how disagreements are handled. All of these will serve as the foundation for recommendations to be made in favor of management. Secondly, this study will be useful to employees in both commercial and public sector enterprises. This is because it will demonstrate how their interpersonal ties produce conflict and how they may resolve those relationships or what strategies to take to prevent disputes. Thirdly, the study will also be useful to union leaders. This is because the research will demonstrate how they may utilize their positions to promote long-term peace inside business groups. Finally, this study would be of great importance to students and all those in the academic sector who wish to carry out further

academic research topics related to this field of study, as it will serve as a reference point.

Conclusion

The dispute would be settled as early in the dispute resolution process as is practical. Hypothesis testing of the study revealed that employees in comparison with employers are found more in favor of ADR. Workers employed in organizations with longer years of operation have a culture of being involved in unions and prefer ADR for dispute settlements. The study found that there is no association between the level of education and the rate of involvement in ADR. In terms of satisfaction rating, respondents rated higher for ADR than formal litigation process. From the data analysis, it is also found that in comparison with the adversarial process, workers mostly are in favor of ADR due to less service cost less time, and less clumsy. To implement ADR techniques more effectively, monitoring by an external body is to be employed to ensure adherence to the practice of law and impartial assessment. Moreover, parties involved in the process of ADR are to be selected more carefully following specific guidelines for ensuring quality judgment. Policymakers may consider the experiences of different countries and incorporate them in the process of settling disputes in relation to ADR. Thus, considering the popularity of ADR over the adversarial process, ADR demands substantial attention for effective and efficient operation in the industrial and commercial sectors of Bangladesh. To investigate the reasons and solutions for worker disputes in the RMG sector of Bangladesh, additional research is required that might consider more garment factories. The findings of this research may also be cross-validated using alternative research methodologies.

Conflict of Interest: The authors reported no conflict of interest.

Data Availability: All data are included in the content of the paper.

Funding Statement: The authors did not obtain any funding for this research.

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