

## ALTERNATIVE DISPUTE RESOLUTION (ADR) IN MALAYSIA: A WAY FORWARD

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**ABSTRACT.** Conflicts or dispute are prone to happen as societies are established and the social hierarchy are evolved. Alternative Dispute Resolution (ADR) known as dispute resolution mechanism that is executed outside the court which comprise of arbitration, mediation, reconciliation, and others. In other word, ADR can be used to deal with both offline and online related disputed. This mechanism of ADR is becoming increasingly popular mechanism to resolve disputes. ADR, despite having potential to become primary dispute resolution, is still lacking in practice. Eventually, other mediation centers were established to handle mediation in specific disputes, such as the Insurance Mediation Bureau (1992) and the Banking Mediation Bureau (1997). As the concept of ADR gained traction, it became clear that an alternative to the traditional court system was not only needed but also a valuable and practical means for the resolution of a growing number of disputes, particularly in commercial cases. As a way to uphold a harmonious relationship, several dispute resolutions tools have been developed. Litigation is the typical approach of settling dispute while alternative dispute resolutions are getting more attention. A survey was conducted to investigate on the existence of an alternative to settle dispute other than litigation in Malaysia. The finding of this research shows that the 95.2% wanted to know more on ADR while 91.7% prefer to be informed through online platform. The paper aims to put forward ADR as a resolution of dispute in Malaysia.

**KEYWORDS:** dispute; alternative dispute resolution; litigation; way forward.

### 1 INTRODUCTION

The occurrence of a dispute is something that is likely to happen within the social relationships. A dispute could happen the moment a person's interest collided with another person or there happens to be a difference of opinions involving two or more parties which resulted to a disagreement. Dispute is classified by Professor J.G. Merrills 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 another." With the intention of implementing an approach to settle dispute, several countries establish a variety of approach within their legal system which takes the form of Alternative Dispute Resolution (ADR)" (Ferdous, 2014). Nevertheless, ADR serves as a complementary mechanism which does not overshadow adjudication but helps in cutting down the work burden or the weights of the courts. The focus of this paper is on introducing ADR as a resolution of dispute aside from litigation. Besides that, this paper highlights on the issues that should be examine regarding the existence of ADR in Malaysia. Lastly, this paper discusses on the potential of promoting ADR as a resolution of dispute in Malaysia.

According to the English judicial hierarchy, the Federal Court is the highest court in Malaysia's court system, which is also composed of two High Courts, two Sessions Courts, and Magistrates' Courts. The society in Malaysia are not recognized to be litigious during the early period after Malaysia had their independence from the Great Britain. Nevertheless, as the economy begin to thrive and the development of education is greater than before, it results in gradually adding the number of cases to the court. This may be from the result of the society having better awareness on their rights or having proper depth concerning their contractual responsibilities. However, as the number of cases continue to increase, it causes difficulties in settling all cases since there are limits to how many judges are available to be appointed and the establishment of new court does not take place accordingly. Also, it causes lawyers or prosecutors to push back their turn of preparing their case for hearing. Many cases are still active in the court registry files as a result of repeated delaying of cases. In addition, the time to announce the judgement will be delayed since the judges are struggling to keep up with the increase of accumulative cases.

## 2 ALTERNATIVE DISPUTE RESOLUTION (ADR) IN MALAYSIA

In Malaysia, a harmonious dispute resolution was documented historically in dispute resolution related to the cultures of Malaysian major populations which comprise of Malays, Chinese and Indians. Thus, it was not something new for the introduction of the formalized ADR during the 19th century in Malaysia. However, the court opted to use the best practise model from the US, UK, and Australia. Due to the program's differences from the traditional mediation techniques prevalent in the cultures of Malaysia's major populations, it is not well known in Malaysia. Following the introduction of the court- annexed mediation pilot project in 2000, which was a success, it was decided to amend the High Court's 1980 Rules to allow for court referrals. There have been several proposals for changes to the civil court system to speed up the adjudication process in line with the advancements seen in other common law jurisdictions like England and New Zealand for 10 years (Oseni & Ahmad, 2011).

ADR basically means the settling of a dispute without resorting to litigation. It saves people from the rigors, costs, trials and tribulations of a courtroom and is a less formal system of dispute resolution than the courtroom. It offers the notion of alternatives to court litigation. When disagreements are handled through the official court system, the parties are likely to be distant from one another once they hear the ruling since the ruling creates a win-lose scenario in which one party will succeed while the other fails. In order to prevent the winner-takes-all syndrome that is typically caused by litigation, effective alternatives that satisfy the requirements of several litigants were devised. ADR helps parties resolve their differences amicably while preserving their existing connection, which results in a win-win situation. This essay discusses a few ADR techniques used to resolve disputes in Malaysia (Oseni & Ahmad, 2011).

Arbitration is the process of settling dispute involving two parties where each party come to an agreement to make a reference to their claim to a third party in order to achieve an unbiased and equitable decision. The arbitrator involves acts as a neutral third party who is in charge of managing the process as well as the one who decides on any required decision to settle the dispute. An arbitrator is someone who is appointed by the involved parties privately unlike a judge. Only by the agreement of the parties may allow a dispute which could possibly send to the court come to be subject to binding arbitration. In regard to this, arbitration is a being of contract along with terms of the parties' which a certain arbitration agreement is usually keep under control. The Asian International Arbitration Centre (AIAC) in Malaysia uses this ADR technique in order to create a stable and harmonious environment for international trade, particularly in the Asia Pacific region. (Omar & Markom, 2007).

Mediation is an alternative method that uses a third person to help resolve disputes. However, a mediator lacks the authority to enforce a resolution to a particular party if it was compared to an arbitrator or a judge. On the other hand, a mediator aims to assist the progress of negotiation and aid the parties to achieve settlement that is mutually acceptable. In general, mediation is a voluntary process where the parties themselves can choose who will be the outside facilitator's representative. It is kept private and secret and is also kept from the general public. This ADR technique is used by the Malaysian Mediation Centre (MMC) with the goal of promoting mediation as a conflict resolution alternative (Omar & Markom, 2007).

Conciliation is an alternative method which include the disputing parties to come to an agreement to utilize a mediator who will separately meet the parties in order to settle various values and opinions. Conciliation is frequently being compared to mediation although it differs from each other. What sets Conciliation apart from Mediation can be seen through the procedure that was executed under Mediation where a mediator will personally see both of the parties and find out what problem they are facing. The mediator will make sure that both parties are aware of each other's stances before being taken along to decide or compromise.

### 2.2 Public View of ADR

It stands for a reason that a large number of studies and laws deemed alternative dispute resolution as a method which can settle dispute as it accommodates the traditional method of settling dispute aside from litigation. However, the general public in Malaysia still continue to use litigation as a method to settle dispute despite the advantages of using ADR. This demonstrates that the general population in Malaysia is not aware that there are other dispute resolution options outside litigation. Besides that, ADR is precedent away by tribunal. As the arbitration process lacks of or having non

existence of precedents results in having difficulty in preparing arbitral decision or award. In addition, as the general public lacks the proper knowledge on ADR, it led them to have little insight on which ADR platform is the best for them to file their cases.

### 2.2.1 ADR as Solution

Studies has shown that ADR possess advantages of being faster, transparent, convenient, fair in the process, and a win-win situation. Application of ADR, especially in finance and Islamic Finance industry will boost costumer confidence and increase the size of finance industry. For instance, the application of arbitration to resolve dispute in Islamic Finance will increase the numbers of Malaysian to use Islamic Finance products (Khalilah, 2018,). ADR method is more convenient than settlement through trial in court when it comes to dealing with Islamic financial affairs in the future (Palil, Nur, & Rizal, 2018). Despite the potential of ADR, especially arbitration, which has the most potential as a dispute resolution in Islamic Finance, law and organisational reform must take place in order to make it the best platform in Malaysia (Nurul & Ruzian, 2017).

Arbitration is expected to be the main platform as ADR method, especially in Finance Industry. The Amendments of Malaysia Arbitration Act 2005 will make Malaysia a safe seat for domestic and international arbitration. The recent Amendments also is an indication on Malaysia's seriousness to address shortcomings and to improve arbitral process (Rajoo & Sundra, 2020). This will lead to strengthen the arbitration awards in Malaysia. It is also hoped that the amendment will attract more arbitration process as compared to litigation to resolve disputes to reduce the burden of courts. Due to the recent revision of the arbitral regime and Malaysia's alignment with the top arbitral seats, it is anticipated that both domestic and foreign commercial arbitrations would prosper in Malaysia (Rajoo & Sundra, 2020).

### 2.2.2 Advantages of ADR

- Time and Cost Saving

This is among the reason as to why people choose ADR as an alternative for dissolving dispute since solving dispute through litigation takes more time. If by accepting ADR can save up more time and cost less for some ADR method but are able to achieve results that are as acceptable as through litigation then, it proves that ADR is more sought-after. Litigation are expensive as it covers several costs such as the cost of pre-trial discovery and will takes a lot of time to proceed as it has several procedures before it takes to courts. Arbitration are among the method of dissolving dispute that takes little time to proceed and cost less. This is because it usually between strictly restricting or excludes pre-trial discovery thus, causes the cost to be less expensive (Mnookin, 1998).

- Amicable Settlement

ADR approaches are able to provide a way to settle dispute without damaging each other's relationship. As the results of settling a dispute through litigation usually ended with a win-lose situation, not all party can put away their past results positively and move on. Litigation may provide the proper process of ending a dispute however the results may not give a satisfaction where it allows these disputants to be able to continue working together in the future. Nevertheless, ADR promotes a win-win situation ending which allows these disputers to be able to continue to preserve or enhance their relationship even after they have settled their previous dispute (Atty, 2015).

- Satisfactory Results

A solution should be provided when there exists a problem in spite of what kind process should be used. The process in ADR inclined to include the parties alongside in order to reach settlement. Therefore, a formal setting was created in order to put forward these parties together as an effort to settle a dissolve. The parties should be guided by the conflict resolution process towards solutions that are workable, durable, and simple to implement. The process of ADR assists to provide the parties a chance to create actual progress concerning the case and enable them to communicate effectively and truthfully via a third person. A competent mediator is able to assist involved parties to achieve a satisfactory result where before they were not able to settle the dispute (Mnookin, 1998).

### 3. METHODOLOGY

The method of research for this paper is using a qualitative approach where it was done through the construction of questionnaire survey. These set of questionnaire survey had been distributed among the public through the use Google form where it managed to receive a total of 84 respondent from around Malaysia. The questions that are constructed in the questionnaire survey are divided into five section which are

- (1) General Information;
- (2) Knowledge and Understanding of Litigation and ADR;
- (3) Opinions on ADR;
- (4) The Issues and Challenges of ADR in Malaysia; and
- (5) Improvement of ADR in Malaysia.

The data that was collected via the questionnaire survey are then finalized and sorted out. A total of 84 respondent feedback was retrieved from the questionnaires survey that was distributed.

### 4. RESULTS

The study of this questionnaire was conducted as follows:

- a) to identify the level of knowledge and understanding of the public about litigation and ADR;
- b) to know the public's views on ADR;
- c) identify issues and challenges faced by the public on ADR methods in Malaysia; and
- d) methods that can be taken for the improvement of ADR in Malaysia.

This questionnaire contains 5 sections, namely part A on respondents' general information, part B of respondents' knowledge and understanding of litigation and ADR, part C public views on ADR, part D of ADR issues and challenges in Malaysia and the last part E on ADR improvement in Malaysia.

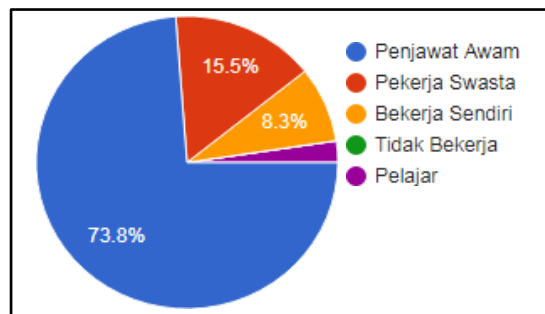


Figure 1 : Respondent type of job

Distribution was made from 4th November 2020 to 10th November 2020. Total 84 respondents have given their response. The analysis is made calculated based on choice of response given by respondents. Choice with high percentage shows majority respondents chosen that choice. So, this method can give the respondents' results systematically and clearly.

This study was answered by 84 respondents and found that more than half of the respondents are women. While 47.6% of them are aged 41 to 50 years. Thus, the distribution of respondents is in line with the target of this research because respondents who are of that age must have gone through several phases of life that may have the need to use this ADR method. From the state point of view, half of the respondents are living in the state of Selangor. Figure 1 clearly state that the type of respondent type of job and the highest job type was government servant.

Furthermore, 70.2% of them have a bachelor's degree academic qualification, knowing that the respondent's academic qualifications are important to see the level of respondents' understanding of the questions posed. Similarly, the types of jobs that respondents also have an impact on the choice of answers, and 73.8% of respondents are those who work as civil servants. Next is section B summarized and analysis of respondents' level of knowledge and understanding of litigation and ADR. In this section, respondents are given eight questions and options. The first question asked is to get feedback on whether the respondents know about the litigation process (summons or trial in court) between two parties who are in dispute over an issue, 76.2% of

respondents are aware of this, this means the average between them noted that in the event of a dispute they can take the matter to court. The next question is to find out the respondents' knowledge of other methods that exist other than litigation known as ADR. What surprising is, the response given by the respondents is same result with the awareness of existence litigation method 76.2%. This feedback affects the results of the questions to be discussed next where it shows that most of the respondents do not know and are not knowledgeable about ADR.

The third question asked to the respondents is related to the knowledge of the respondents if they know any ADR methods that exist in Malaysia. A total of 14.3% respondents found out about the existence of this ADR method and gave examples of ADR methods that they know namely mediation, med-arb (hybrid), arbitration, mediation, Industrial Court, *Sulh* or *hakam* method and Consumer Claims Tribunal. While the remaining 83.3% respondents do not know about the existence of ADR method. Respondents were also asked if they know of any organization or Government Agency (arbitration court or tribunal) that offers services to resolve disputes with any party. 34.5% of them found out about this and stated the agencies they knew such as the Consumer Claims Tribunal, Malaysia Mediation Centre, GST Tribunal, Industrial Court, *Syariah* Judiciary Department, Home Buyers Claims Tribunal and KLRCA (or now known as AIAC).

The fifth question of this part B is to get the respondents' feedback on the improvement of the ADR platform provided by the government. 48.8% of respondents are not sure whether this platform needs to be improved or not while 46.4% feel that this platform needs to be improved. Next, respondents were asked if they were interested in learning more about ADR methods in the future and 95.2% stated that they were interested. Coincidentally, 91.7% of respondents chose online media as the main media if they want to know more about ADR. And lastly, 73.8% of respondents will choose the ADR method if they have a dispute in future. In figure 2, shown the reason why respondent did not take legal action on the dispute.

Next is part C, view of respondent on ADR. 77.4% of the respondents thought that the ADR method is suitable to be done in Malaysia because this ADR method saves time, saves money and faster. 90.4% of them also think that this ADR method can resolve disputes between two parties in various matters, whether domestic disputes, personal matters, consumer issues or business issues. In fact, 84.3% of the respondents also think that the ADR method is fast, maintains confidentiality and through discussion is appropriate in resolving disputes in any issue. 95.2% respondent choose that ADR method in Malaysia can resolve disputes with any party at cheaper cost.

For part D, the respondents were given three questions along with the choice of answers to identify issues and challenges faced by the public on ADR methods in Malaysia. The first question asked is to get feedback on what are among the reasons as to why when a dispute concerning business or personal issues that should have taken a legal action occur but did not do so. The next question is to find out what are among the concerns if one should choose to resolve their dispute through litigation and lastly, what are among the most concerning factors if one chooses ADR as an alternative for resolving dispute.

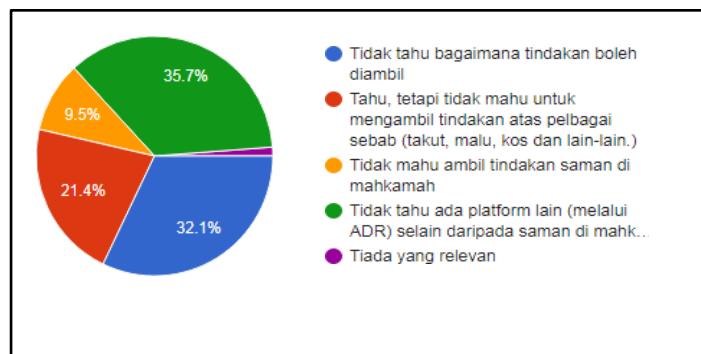


Figure 2 : The reason why respondent did not take legal action on the dispute



Figure 3 : Factors that need to be given attention to improve on ADR

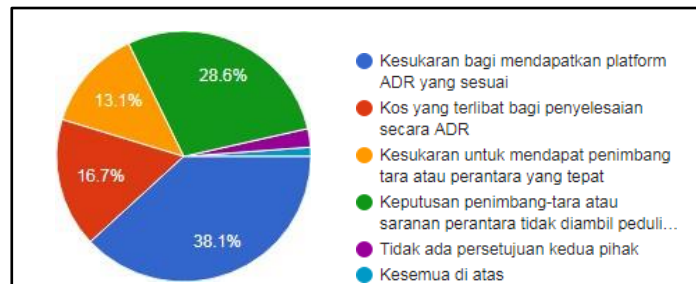


Figure 4: Factors for not choosing ADR

Figure 3 shows the factors that need to be given attention on ADR and figure 4 shows the factors for not choosing ADR as a solution in their disputes. The last part which is part E is related to the improvements that must be done so that the issues that arise are limited ADR can be controlled and taken care of by the relevant parties. For part E, the respondents were given four questions along with the choice of answers to examine any improvement that can be done with ADR in Malaysia. The first question asked is to know whether anyone who had resolved their dispute through ADR platform under a Government Agency (Court of Arbitration) had ever face any problems. The next question is to find out what are the factors that are most concerning if one had ever been involved with ADR in any platform under a Government Agency. After that, the question asked on whether the information on the existing ADR Agency (Court of Arbitration, etc.) provided by the Government are publicized widely. Lastly, the question is given to know the factors that need to be given immediate attention to improve the ADR process so that it becomes an option aside from litigation for those who are trying to resolve their dispute.

## 5. LIMITATION

Although achievements were fulfilled in this study, there are some limitations that future research needs to pay attention with. First, the sample was distributed through email and WhatsApp which was not fully covered to most of the public and no respondents at all from Perlis, Kedah, Sabah, Sarawak and Federal Territory of Labuan. In general overview of more people is needed in future research. Second, there are no respondents from 'Not Working' group, where most of them are not affordable for the litigation fees. Future studies could broaden their scope to focus on this specific group in the country. Third, there is little room in this type of research approach for respondents to provide responses that truly express their thoughts on a subject. Open questions need higher writing abilities and a stronger ability to convey one's views verbally, hence they are inappropriate for replies with less education. Apart from that, to have genuine respondents is something unpredictable due to social desirability in this type of methodology. This is a problem as a smaller sample size may be obtained. It may also consume longer time to analyze the data for the researcher to analyze qualitative data as they have to read the answers and try to put them into categories by coding, which is often subjective and difficult.

## 6. DISCUSSION

Despite the existence of various ADR options, litigation through court process is still the

popular mode among the contracting parties in Malaysia (Hasshan, 2016). Although ADR possess many of advantages and benefits, it is still not popular platform for a dispute resolution in Malaysia. Although the survey found out that 90.4% of respondents think ADR is suitable as a dispute resolution method, only 23.8% know the existence of ADR versus 76.2% that know the existence of Litigation. The low percentage of public awareness of ADR probably contributed by lack of promotion by respective parties on the ADR methods itself. Popularity of litigation as compared to ADR is not unique in Malaysia, for example Law of Republic of Indonesia Number 36 Year 2009 Concerning Health, stated that dispute on health negligence can be resolved through mediation, but does not clearly stated mechanism and institution to oversee the process has led to high numbers of cases is being solved through litigation (Hatta, 2018). The government of Malaysia is working meticulously to empower and promote ADR as a preferable platform for dispute resolution. A new section 3A was added to the AA 2005 as a result of the 2018 Amendments, allowing parties to select any representative—not simply a Malaysian or a foreign attorney—to advise and present their case during arbitral hearings. The need for such adaptability in commercial arbitration (Kawamura, 2017).

The amendment has taken account many factors, including to make KL as a major arbitration regionally by changing its name from KLRCA to AIAC. The amendment also increases the flexibility arbitration process, where a party would prefer a representative with subject matter expertise or with a lawyer whom they are comfortable to work with. The amendment also in line with the New York Convention, in terms of enforcement in arbitral awards. This a major reform in giving confidence in award by AIAC. Taking consideration of robust expansion in digital platform, the amendment of AA 2005 also promotes ADR as a method to choose in business of electronic commerce through inclusion of definition of writing to include electronic communication. Malaysia is not lacking ADR platforms and jurisdiction. For example, AIAC is considered as a leading arbitration centre regionally. The recent amendment of Arbitration Act 2005 in 2018 has given AIAC and wider scope and more flexibility in handling arbitration.

The survey has found that 61.9% does not know any government platform for ADR despite many platforms already in place by the government for dispute resolution. This has shown that the platform is not widely promoted or lacking understanding among the public on ADR platform and method. For example, although AA has been approved in 2005, litigation is widely popular, for instance, number of cases of settler versus Federal Land Development Authority (FELDA), dispute has been brought and solved by litigation. Among the main issue on ADR is precedent award by tribunal. The lack of or non- existence of precedents in an arbitration process is a cause of hardship when making an arbitral decision or award. Without precedents or references to previous awards a tribunal is left without guidelines on how an award should be made. The right jurisprudence as a legal philosophy can provide for these much-needed guidelines. In this way most of the tribunals would possess the knowledge as to the procedure and the legal requirements in the making and arbitral award which cannot be challenged (Mathew, 2008).

The most critical issue for the public is getting the right ADR platform to file their case. Public does not aware that there are many ADR platform, apart from AIAC or MMC, relevant Ministries and their agencies are also offering ADR platform in their niche areas. Mediation is a dispute resolution process that can be done with consent by both parties. Malaysians' knowledge of ADR is weak while there are many institutions that provide ADR services such as Ministry of Housing and Local Government (KPKT), Ministry of Finance, Ministry of Domestic Trade and Consumer Affairs (KPDHEP), Malaysian Cooperative Commission, Malaysian Intellectual Property Corporation (MyIPO), National Registration Department, Ministry of Human Resources and many more that they can use the benefits as Malaysians.

Apart from that, the respondents' worries about the settlement process in court involving the cost of legal services and high court hearings as well as the lengthy trial period are also issues that arise. This is because, the use of court institutions that have long been known in the eyes of society and have become a habit has closed other spaces for the use of ADR. However, the time-consuming court process will be somewhat disruptive as there are some cases that require immediate and prompt decisions such as cases in determining child custody rights.

Another factor that worries the public through settlement in court is the high cost of legal services and trial in court as well as the lengthy trial period. While the difficulty in obtaining the appropriate ADR method is also a major issue. The last issue that arises is when 38.1% of respondents answered that the difficulty in obtaining a suitable ADR platform also coincides with the knowledge that the respondents have. Not all cases can use ADR services therefore users should be wise to obtain relevant information and from the information sought by users can

determine the appropriate ADR method to take. However, the issue arises when the ADR method announcers themselves act passively. Although the world has evolved modern yet, virtual search methods are still difficult to understand and find the right ADR method for users

From the questions asked to the respondents, it was found that there are three suggestions for improvement that can be highlighted, namely in terms of payment procedures and methods, disseminating information widely and providing exposure to the public. However, since most respondents do not know about ADR then they do not know the information of the existence of ADR Agency provided by the Government. This is a loss when they do not use the platform provided by the Government. These platforms are usually cheaper in terms of cost and simpler procedures.

In addition, the widespread dissemination of information is also important so that the information really reaches the users. Nowadays, many mediums can be used in disseminating information such as advertisements on television and social media such as Facebook, YouTube and Instagram. The relevant parties can create either info-graphic or creative video in conveying information so that it is easily accepted and understood by users.

As the presentation of information regarding ADR, widespread exposure to the public is also important so that future users know the ways and procedures in using ADR as a solution method. At a time when the country is hit by the pandemic of the Covid-19 pandemic, exposure can be done by virtual methods. The party can hold a workshop session to the user, where as a result of participating in the workshop the user understands the types of ADR and is smarter in arranging the steps to choose next using the ADR method. From this question it can be concluded that, although most of the respondents are working as civil servants but some of them still do not know the government agencies that offer ADR method services. From these questions, it was found that the three main issues that can be identified are 32.1% of the respondents representing the public do not know about the existence of other methods such as ADR and do not know what action can be taken.

Analysis can be done based on the number and percentage of answers of all respondents according to their choice. In this regard, it can be linked here that it is clear that respondents do not know the appropriate action to take because they do not have knowledge of ADR and in line with the respondents' response to the knowledge of ADR where as many as 76.2% of respondents do not know about the existence of ADR in Malaysia.

## **7. WAY FORWARD**

### **7.1 ADR as Preferable Platform**

When it comes to the financial aspect, Malaysia is a country that practices two different economic systems, namely the system of Islamic finance and conventional finance system (Palil, Nur, & Rizal, 2018). ADR is possible to become the main platform for future disputes. The 2018 amendment of Arbitration Act 2005 is one of the latest major indications that Malaysia is serious to improve arbitration process not just for domestic, but also platform for international arbitration. It is also a manifestation that Malaysia is taken approach in improving in jurisdiction to enhance shortcomings and strengthen arbitral process and awards. Potentially ADR is ready to become the preferable dispute resolution method and the government of Malaysia is in the right direction by executing institutional and law reform, the question is, how to get the public to use ADR as their preferable platform. Our survey finding resulted that 95.2% wanted to know more on ADR and 91.7% prefer to be informed through online platform. There are many platforms of ADR Malaysia, whether specific institution such as AIAC and MMC, or various tribunal or agencies under respective niche in the Ministry. Since the public survey suggested that online platform is the best channel for them to explore ADR platform, probably, one dedicated website or ADR medium should be established. Having many ADR platform is not an issue, and probably the best to do so given the complexity of areas and dual judiciary system in Malaysia. The dedicated website would be the first step for public to refer for the right advise to channel the dispute to right ADR method and subsequently to the correct Agency.

#### **7.1.1 Sulh as ADR method**

Another ADR method according Islamic Law that currently not ventured is the Sulh. An alternate method for settling disputes between conflicting parties is sulh. It includes principles of



counselling, consulting, and arbitration in addition to mediation. Therefore, advising the parties in conflict to use Sulh is not improper for a judge to do. If one of the parties has no idea what the real issue is or what rights are at stake, the judge may encourage them to resolve their conflict through Sulh. For instance, a study by Syariah court Department of Malaysia in 2002 found out that *Sulh* has successfully reduced 65% of cases in Selangor Syariah Court since it was introduced in 2001 (Anon, 2002). The cases include *muamalat* cases, for instance, dispute in matrimonial property, alimony, inheritance, etc, which involves financial aspects in the dispute. Nevertheless, *Sulh* is not limited to any scope, any dispute regardless in Islamic finance, marriage, or personal issue, Sulh can be proposed as a method for ADR. Therefore, Sulh can be adopted to become another ADR method especially for Islamic Finance.

## 8. CONCLUSION

In conclusion, generally Malaysian has knowledge on ADR, but lacking of information on ADR institution and process. In line with that, the method that are being offered through ADR are not discovered for its potentials to dissolve dispute. They feel that the platform of this government agency still needs to be improved and are interested to know more about this ADR method by using mediums such as online media and show interest in obtaining ADR services in the future. It was discovered through the survey that the ADR method solution is suitable to be done in Malaysia and can resolve disputes between two parties in various matters, be it household disputes, personal matters, consumer issues or business issues. The advantages of ADR which are fast, preserve relationship and receiving satisfactory results attracts the public to use ADR.

Studies have shown that people are generally positive and willing to accept these conflict resolution techniques, even though the public is still not very exposed to the use of ADR. It is crucial to maintain this momentum by making a greater effort to inform the public about the proper procedure and provide them with support when they embrace ADR. As a result, more collaborative efforts between appropriate government agencies and the business community, including unions, employer organizations, and other groups, are needed. By hosting seminars and workshops for the community, the relevant agencies need to promote the education of ADR knowledge and skills. Additionally, agencies that adopt ADR should be rewarded because doing so will result in fewer cases being referred to the court, which will significantly reduce the backlog of cases. Provision on new laws, such as the need that parties to workplace disputes first engage in a series of negotiations or ADR sessions before taking the matter to court, would be beneficial. ADR has a great potential for dispute resolution in Malaysia, but more to be done. The Government of Malaysia has put good effort to empower the ADR law and platforms such as AIAC and MMC, but the other platforms are scattered under various departments under federal or state government and unknown for the public to explore. Apart from that, the ADR methods could be explored as such as Sulh. Promotion to use ADR as a main platform for dispute resolution need to be done. Public awareness and confidence are the main factor to ensure prepared platform is well utilized to reduce burden of court system.

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