“The Benefits and Limitation of Family Mediation as an ADR process within adult Relationship Breakdown”

by

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A dissertation presented to the

FACULTY OF LAW

INDEPENDENT COLLEGE DUBLIN

MA in Dispute Resolution

Novembro 2021

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Dissertation Submission

LEARNER NUMBER	51710421
NAME	Marcela Cristina Vieira da Cunha
COURSE	MADR
DISSERTATION TOPIC	**T**he Benefits and Limitation of Family Mediation as an ADR process within adult Relationship Breakdown
SUPERVISOR	Sharon Morrissey
WORD COUNT	1967
DUE DATE	05/11/2021

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Acknowledgements

First, I would d like to give sincere gratitude to my supervisor, Sharon Morrisey, for her constant support of my research and her patience, kindness, encouragement, and broad experience. I couldn't have asked for a better supervisor for my research. For the past two months, I've been through an incredibly challenging in all aspects of my life, and she has always been there to encourage and guide me.

I'd want to thank all of the teachers in the Dispute Resolution course for their dedication, patience, and knowledge, which helped me grow by introducing me to subjects that made me more compassionate and aware of all types of conflicts in society.

I would want to thank everyone who assisted me with this project, including my family, friends, and coworkers. I am eternally grateful for your understanding and support.

I'd want to apologize to the examining board for the language gap, which continues to be a significant challenge to me.

I do apologize for the poor quality of my writing in the setting of a Dissertation in this field. I did not have time, like my colleagues, to have someone perform the grammar correction. Therefore, Indeed apologize once more for maybe leading this work in a reading that was difficult to grasp.

Abstract

The goal of the presented research is to investigate the benefits and limitations of Family Mediation as an ADR process in a relationship breakdown, where interested parties may request mediation to resolve their conflict with the intervention of a qualified mediator to assist decision-making required to reach a possible agreement.

The author seeks to understand the family Mediation measures and acquire data from the study of secondary qualitative and quantitative data in this work, utilizing a mixed-method approach, secondary qualitative and quantitative data, and inductive methodologies.

The thesis tends to assess families and their relationships in Dublin (Ireland) using the methods already described. It will investigate if the society is aware of the Family mediation procedure by searching the data applied in Google Survey. This thesis will concentrate on the Family Mediation Process as an alternate approach to addressing family issues in case of a relationship breakdown.

Introduction

The purpose of the study is to address education about the benefits of family mediation as an ADR process in adult relationship breakdown. Mediation is the most viable method to reach a consensus in the resolution of conflicts of a family nature, it occurs through an extrajudicial process with the intention of resolving conflicts, in which there is an impartial third person, the mediator, whose role facilitates the adequate solution for everyone involved.

Family mediation is an instrument aimed at social peace fostering a peaceful and friendly relationship between two subjects linked because of a lasting relationship. It is of great importance for the mediator's intervention in this process, inputting the parties in dialogue so that they can aim for an agreement that satisfies them wherever their true intentions are exposed. (Astor, 2010)

Family mediation has some benefits, among which the process is faster than a judicial process, tends to have solutions through dialogue, and preserves the relationship between those involved.

In recent decades, family mediation has advanced significantly. Although it is evident that mediation is not a replacement for counseling, therapy, legal advice, or access to the courts, it is now largely acknowledged as a legitimate form of dispute resolution with numerous advantages. (Corry, 2014)

Family mediation, on the other hand, is a product of social growth and is significantly impacted by societal conventions as well as each country's particular strategies for coping with marriage breakdown. Ireland's particular cultural, religious, and legal contexts have shaped the service, and these elements should be acknowledged when comparing mediation procedures in other nations. Furthermore, mediation is performed in a variety of settings by a variety of experts with different backgrounds and abilities, who apply different models and are influenced by different theoretical perspectives, compounding these comparisons even further.

The thesis will address family mediation, which is an extrajudicial method of conflict resolution, in which there is an impartial third person, the mediator, whose role is to facilitate the appropriate solution for all involved.

Chapter first discuss The Concepts of Mediation Process to better understand the processes described above: Brief History of Mediation, The Developing of Mediation at the European Level (A Council of Europe and European).

The second chapter will examine Mediation Process in Ireland, Mediation v Litigation, Family Mediation Services, Law Reform Commissions Alternative dispute resolution: Conciliation and Mediation, Mediation Process in Family law in Ireland, Mediation as an Alternative to Litigation.

The purpose of chapter three is to demonstrate structure of Family Mediation Process, the four principles of Family Mediation (Voluntary, Impartiality, Confidentiality, Self-determination); the Role of Mediator e Co-mediator.

Finally, in chapter four, understanding the family mediation process in the breakdown of the relationship in Ireland, as well as clarifying the alternative of conflict resolution through mediation, clarifying the advantages and disadvantages of mediation within the family context in Ireland, elucidate the reasons for opting for the Family Mediation Process instead of Litigation, demonstrate the Court's report on divorce, and on the Respondents' Serception on Family Mediation.

The study tends to address the success of family mediation in adult relationship breakdown, as defined by the legal system, which states that Mediation is an alternative to resolving family disputes through peaceful interpersonal interactions. Mediation is a fast, flexible, low-cost, accessible, humanistic, and successful method of conflict resolution. It also enables parties to communicate in an easy and accurate manner.

Aims and Objectives of this Research

The aims of the research presented here, is to illustrate the effectiveness of Family Mediation as an alternative to resolving family conflicts related to relationship breakdown.

- The following objectives will be the focus of this research:
- Discuss the concepts of mediation processes to understand better the above processes: Brief history of Mediation, The development of Mediation at the European level (Council of Europe and Europe).
- Demonstrate the Scope of Family Mediation process in Ireland, Mediation v litigation, family mediation services, ADR law reform commissions: conciliation and Mediation, Family Mediation process in Ireland, alternative dispute mediation.
- Asses the Family Mediation Process structure, the four principles of Family Mediation (Volunteer, Impartiality, Confidentiality, Self-Determination), and the role of mediator and co-mediator.
- Emphasize the effectiveness of family mediation in adult Relationship Breakdown, as determined by the legal system, which establishes that Mediation is an Alternative to resolve family conflicts through interpersonal communication in a peaceful manner. Mediation is a speedy, versatile, low-cost, accessible, humanist, and effective resolution method. It also provides an opportunity for parties to communicate productively and securely. Emergent solutions may produce answers that are more innovative and customized to individual needs than traditional legal systems.

Research Methodology and Methods

The thesis presented here will be supported by a mixed method approach using qualitative, quantitative through data research and ethnographic secondary research analysis to support the objectives presented throughout this work.

Analysis of secondary quantitative data will be used to identify respondents' knowledge of the benefits aand Limitation of Mediation Process, as well as the prevalence of such research specifically focusing on Ireland.

A secondary qualitative research will be used to assess the measurement of family conflicts, and demonstrate the benefits in order to preserve the relationship between those involved who seek to resolve conflicts. The same method will be used to assess the provisions of the introduced measurement laws. The use of this method is necessary to demonstrate the extent of conflicts, internal and external, in relation to the practice of family mediation.

The ethnographic methodology combined with the analysis of the qualitative method will demonstrate the means necessary to request or accept the intervention of a mediator who is qualified and impartial that allows the conflicting parties to make lasting and mutually acceptable decisions.

Introduction

Chapter 1 – Concepts of Mediation Process

1.1 Brief history of Mediation

Mediation has a long history in a variety of cultures and social contexts. It was the primary method of dispute resolution in ancient China, for example, and it has been used to assist individuals in resolving personal disputes in Japan for the last hundred years.(Folberg & Taylor, 1984).

Mediation recognizes and respects the right of each party to a dispute to reach a mutually acceptable agreement in a consensual manner that meets their specific needs. Continuing conflict can be harmful to interpersonal relationships, so a process that focuses on cooperation and problem-solving is regarded as an important option.

Guynn Davis (a researcher at the University of Bristol) founded the first judicial family conciliation service in 1977, working with the court to respond before judicial measures were taken.

In 1978, in Bristol, England, the first mediation service was established, founded by social worker Lisa Parkinson, and marked by independence, with remuneration symbolizing mediators' important acknowledgement for their highly specialized activity in delivering mediation services.

The mediation began with the recognition of judicial conciliators' ability to deal with issues of custody and visitation of children, as well as the technical competence of lawyers, with the addition of the practice of the social inquiry technique and the preservation of the spirit of mediation.

After the 1970s in the United States, vital dissemination concerned improved access to justice, in response to the explosion in mass litigation that marked the beginning of a global trend of creating "derivative circuits" as an instance of conciliation for small claims discipline.

The term “second class justice” instituted a “new” form of social control. It became to develop mediation experiences in all aspects of human relations, especially family mediation, which, however, is more requested in divorce.

DJ Coogler, an Atlanta-based lawyer, was the first to coin the term "family mediation" in 1974. He opened a private practice of family mediation in 1974 and published his theory of experience in 1978 under the title Structured Mediation in Divorce Settlement, which was the first publication of its kind in the United States. The year 1982 saw the beginning of an extensive and effective project, which included mediators in forty-four North American states.

Family mediation schemes grew in both the public and private sectors, and many of the early programs – particularly in the United States – were linked to divorce courts. Court-related mediation services (originally known as conciliation services) were first established in California in 1939 and have since spread throughout the United States.

It is not surprising, then, that as the rate of divorce in the Western world increased in the second half of the twentieth century, couples in troubled marriages turned to mediation to help them reach mutually acceptable agreements about child custody, property distribution, and financial allocation after divorce.

Many people are aware that litigation may be time-consuming, expensive, and unpredictable. Following a review of the dispute resolution procedures of the courts, it was determined that harmonising dispute resolution procedures for their resolution in the European Union was necessary, and the EU issued a directive regarding mediation (EU Mediation Directive 2008/52/ EC), which was applied to both civil and commercial disputes.

As a result of the EU mandate, the Mediation Act was just recently enacted in Ireland, in 2017. This law went into effect on January 1, 2018, and it established a legal framework that was intended to promote conflict resolution through mediation as a viable alternative that was also

efficient and cost-effective compared to traditional court procedures. The success rate of the mediation process has been estimated to be between 65 and 80 percent, according to a number of studies that have been published.

The Mediation Act 2017 was adopted by the Oireachtas as a result of the outcome of the Mediation Directive, and it came into effect on January 1, 2018, following its adoption by the European Union. Among the purposes of the Act are to promote the resolution of conflicts through mediation by providing specifics on the principles that apply to mediation, as well as to specify the modalities of mediation as an alternative to the commencement of a civil lawsuit.

1.2 The Development of Mediation at the European level

a) A Council of Europe

The first concession for alternate means of dispute settlement (Alternative Dispute Resolution) occurred in the 60s and 70s in the United States, where it spread swiftly and was conquered by other continents. The European Union's significant participation in the implementation of ADR was critical for other Member States' commitment.

Although it began in the United States, the Alternative Dispute Resolution movement has spread across the world. Furthermore, they led to factors such as court overcrowding and judicial system discredit, necessitating the use of alternative dispute resolution methods.

Europe's mediation movement started in the late 1990s, and it eventually spreaded to the United States with the 1976 Pound Conference, where notions such as the "multi-door courthouse" were introduced. In the 1980s, these concepts were expanded to include Australia, Canada, and New Zealand. An outpouring of support for mediation was heard, and it was a procedure that offered more advantages than disadvantages, including cheaper costs than litigation or arbitration processes, informality, flexibility, and autonomy in the pursuit of a mutually and beneficial agreement.

Different models emerged in Europe, and in some countries, mediation regulation made the existence of mediation programs to resolve consumer rights conflicts commonplace.

And, until May 21, 2008, the European Parliament issued Directive No. 52, based on the fundamental recommendations issued in 1998 (98/257/CE) and 2001 (2001/310/CE). Breaking a policy of valuing consensual conflict resolution that definitively entered the agenda of the European Judicial Area, which forced each member state to think, insert, or create legal texts that would appreciate the mechanisms for amicable conflict resolution, which resulted in a series of changes that have meaning in the national ordinances of many member countries.

However, the Directive has a more limited scope than recommended in the Green Paper on Mediation, and it is clear that the purpose of this interference was to target notably those countries with little knowledge of ADRs. Using mediation in civil and commercial processes as an essential step to promote access to justice, being more straightforward and faster, and, as a result, attempting to resolve the institutional crisis of the judiciary that has shaped the majority of its member countries.

Despite the fact that the norm, as a community, is immediately focused on regulating transnational conflicts, the European Parliament and the Council of the European Union recognize that the adoption of mediation even in the internal scenario of countries would constitute a greater speed than in the resolution of controversies. Being for its low cost to be spent; by predicting a more excellent disposition of the parties involved in the spontaneous implementation and maintaining the friendly relationship between the interested parties.

The Conference of European Ministers of Justice and the European Conference on Family Law are the Council of Europe's bodies concerned with family and child law. Already in 1998, at the Vienna European Council, the heads of state approved an action plan of the European Council and the Commission, which included measures to "examine the possibility of drawing up models for non-judicial solutions to disputes with particular reference to transnational family conflicts" and

arrangements for the implementation of the relevant Treaty of Amsterdam provisions. The Council of Europe's adopted recommendation on family mediation encourages governments to "introduce or promote family mediation or, where necessary, strengthen existing family mediation" and to take steps to put a set of principles into action.

Following that, the European Council issued a number of directives and recommendations containing guidelines addressed to national governments, as well as conventions outlining obligations binding on contracting states. For example, the European Council meeting in Tampere in 1999 called on the Member States to establish alternative extra-judicial procedures. The Council of Europe proposed in 2000 that alternative dispute resolution (ADR) in civil and commercial matters could simplify and improve access to justice.

Furthermore, throughout the last three decades, the European Ministers of Justice have covered a range of family law and child rights issues at a number of conferences, including one in Strasbourg in 1998 devoted to "family mediation in Europe." Following that, a Contact Convention on trans-frontier access to children and safeguards for child return was adopted. This treaty also encourages member states to include similar provisions in their domestic legislation in order to standardize the process on a domestic level, facilitating international cooperation.

In the Directive, mediation is defined as a voluntary process in which a third party assists with two or more parties to settle a dispute. A functional definition that focuses on the agreement as to the purpose of seeking mediation. Moreover, it preferred general regulation, such as definitions, confidentiality and other conditions, in a particular way to account for the complexity of different languages and cultures in the EU. However, it has not been enough to generate a consensus among member states in the transposition from the Directive's rule to its internal ordinances. If there is an existence of some views on the subject, it is inevitable.

According to the publication, of May 21, 2008, of Directive 2008/52/EC of the European Parliament and of the Council, which is considered one of the most relevant European legal diplomas on the subject.

Furthermore, applicable to cross-border disputes in the civil and commercial sphere, this Directive aims to ensure better access to justice within the EU, presenting mediation as a legitimate option, no less than the judicial process.

The EU Mediation Directive (2008) applies when two parties involved in a cross-border dispute voluntarily agree to resolve their dispute through the use of an impartial mediator. EU member states must ensure that facilitated agreements can be upheld. Furthermore, the Directive 2008/52/EC on certain aspects of civil and commercial mediation establishes a set of minimum regulations for cross-border mediation in civil and commercial matters, which entered into force in 20 Member States in May 2011. Article 4, 2 of the Cross-Border Mediation Directive states that Member States should encourage mediators' initial and ongoing training in order to ensure that the mediation is conducted in a beneficial, impartial, and competent manner in relation to the parties.

The Commission's general opinion is that cross-border legal disputes from among EU's 27 member states are best resolved through mediation instead of through courts. The European Commission reaffirmed the potential of existing EU-rules on mediation in cross-border legal battles at the end of August 2010; the Commission reminded the EU-27 that these steps can only be effective if implemented at the national level by all member states. If mediation fails, disputes can always be resolved through traditional court proceedings.

The EU has not adopted a position on the mandatory nature of mediation (or of a pre-mediation session for information purposes only), which leaves such a decision to the discretion of member states.

b) European

Although mediation is at different stages of development across Europe, in overall, family mediation had also taken similar steps in all European countries. When practitioners who rely on family conflicts discovered mediation, they formed associations to promote and practice it. Once organized, they were able to persuade national legislatures that mediation is a useful mechanism for resolving conflicts arising from separation or divorce. As an outcome, family mediation has mainly received legal regulatory oversight or has been addressed inside that wider framework of rules governing mediation in civil trials (Casals, 2005). In general, all European countries have some form of alternative dispute in place in family law.

The European Union, in particular, provides a well-known incentive to adopt this alternative method of resolving cross-border conflicts with a clear scope of social pacification, the law's primary goal.

This stimulus began in March 1998, with Recommendation No. 98/257/CE, which deals with what the bodies responsible for extrajudicial conflict resolution could apply to cases, initially in relation to consumption, enabling the implementation of a system, based on principles, that would promote the guarantee of a fundamental right enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms, in its article 6: it is abstention.

According to Moore (1998, p. 47), "mediation has developed quite consistently across Europe, but not all states have implemented it satisfactorily or equally."

With legal and personal relationships becoming increasingly globalized, whether as a result of multinational corporations in European Union member countries or the various virtuais links made possible by the internet, the possibility of cross-border conflicts and disputes grows.

As a result, the European Union pioneered e-Justice (European Justice), establishing the European Justice Portal and forming the so-called European Judicial Network.

To ensure full access to the multi-port system, the EU created Council Directive 2002/8/EC on January 27, 2003, to improve access to justice in cross-border disputes by establishing standard minimum rules to support the judiciary in these disputes.

The concept of a multilateral agreement to promote the enforceability of MSA as well known in the EU. The same debate is taking place at the global level among the current signatories to the Convention as they seek to reach an agreement on a universal set of best practices during mediation. The EU can add to the discussion by not providing answers but using the ongoing consensus-building journey to push the signatories to an agreement.

With violation of applicable standards of practice being a stated ground under Article 5(1)(e) of the Convention for opposing the application of an MSA, it is critical to achieving a reasonable level of prominence on this topic. Participants in the discussion must understand that international standards are never set in stone. Conflicts and resolution methods will evolve. Still, while international standards must allow for flexibility and adaptability to fit the context of each country, there must also be enough specification to provide guidance and predictability. Essentially, mediation can benefit from the experience and knowledge gained while writing international arbitration and litigation rules.

The structure and practice of international mediation must be refined with attention and skill to guarantee that they keep up with the changing nature of conflict and conflict resolution. Due to international constraints, the recent switch to digital operations is a perfect example of how things may change quickly.

Chapter 2 - Mediation Process in Ireland

2.1 Mediation V Litigation

Over the previous two decades, numerous significant pieces of legislation have had a significant impact on family mediation, resulting in a fast change in this field. The Family Law Act of 1995

sought to do away with the concept of fault-based divorce in favour of mediation to eliminate acrimony and encourage collaborative decision-making before going to court.

At this time, an aspect of mandatory mediation appeared in the family context, with those qualified for public financing being forced to attend a meeting with a mediator to learn about the procedure before obtaining funding for legal counsel. As a result, providers of mediation services expected an increase in demand.

The demand for judicial decisions to resolve disputes developed to the point that the resources dedicated to the area were inadequate in comparison to the number of litigants.

It is important to emphasize that the population's litigation culture is not the only source of delays in the judiciary; to do so would be to absolve the State of any responsibility and focus on only one part of the problem, overlooking the high bureaucracy and reform that the judiciary requires.

A judicial hearing is typically adversarial, with only one party prevailing. It is constrained by severe procedural constraints, and the outcome is limited to a few specific legal alternatives. Mediation is intended to help parties to seek settlements that fit their requirements without necessarily conforming to rigid legal norms. It is intended to encourage parties to reach resolutions that meet their needs without necessarily adhering to strict legal principles. It is designed for cooperative decision-making, uses a flexible and open procedure, and is intended to encourage parties to reach resolutions that meet their needs without necessarily adhering to strict legal principles. Because the limited norms of proof do not apply in mediation, the parties are more free to explore underlying reasons and problems.

One of the benefits of mediation over more formalized methods is its flexibility, according to experts. Another apparent advantage of mediation is that it is non-adversarial, which means that parties to a mediation are less likely to have their relationships shattered by a protracted adversarial

proceeding. Finally, compared to a formal court case, mediation is often thought to be less expensive and more efficient.(Parkson, 1997).

According to The Model Standards of Practice for Family and Divorce Mediation (Schepard, 2001, p.127), "family mediation" or "mediation" is a procedure in which a mediator, an unbiased third party, helps the resolution of family problems by supporting the participants' voluntary agreement. The family mediator facilitates communication, promotes comprehension, and directs members' attention to their own and shared interests. The family mediator assists participants in exploring choices, making decisions, and reaching their own agreements.

Mediation was established to address growing discontent among families affected by divorce and the resulting settlement issues with the legal adversarial processes of litigation (Turkat, 2000).

Several studies indicate that mediation is a superior strategy for optimal family adjustment to divorce and a more constructive relationship breakdown to achieve an agreement than the usual confrontational litigation procedure. Mediation, in particular, leads to higher settlement rates, more efficient use of time and money by the court, improved psychological adjustment of participants, more satisfied participants, lower relitigation rates, less post-divorce conflict and more co-parent cooperation, and a greater sense of control over the mediation outcome by participants (Bailey & Robbins, 2005). Nevertheless, there is a limitation of scientific evidence on the actual practice of mediation at the moment.

Divorce is commonly perceived as an unpleasant event for all parties involved since it comprises legal and emotional life changes, transitions, decisions, and arguments involved with splitting joint assets. When the emotions of divorce are paired with the practicalities of separating, divorce can produce a combustible scenario for the divorcing spouse and other family members, including children. Litigation, the most common type of dispute resolution, is an adversarial procedure, and data suggests fostering animosity between divorcing parties. Family mediation is a dispute

resolution method that can be used as an alternative to litigation. (Braver, Cookston, & Cohen, 2002; Emery & Wyer, 1987b; Sember, 2006).

Conflicts are frequently both positive and bad, and they are associated with frustration because one party suffers when the intended outcome is not reached. They are constructive, though, when both parties reach an agreement and address an issue that is in the process of being resolved (MARTINELLI, 2002).

Mediation, as previously noted, is an alternate method of dispute resolution that also serves as a type of access to justice. It enables the parties involved in the dialogue to be heard and understood in order to reach an agreement and, most importantly, to retain the existing connection.

The word mediation evokes the meaning of center, middle, balance, composing the idea of a third element that is found between the two parts, not over, but between them," according to Spengler (2016B, p. 32), allowing a continuation of the relationship that already exists between the parties, interrupting only the problem that is currently compromising that connection.

According to Christopher Moore, mediation is the involvement of a third party in a negotiation. This third person has limited power and can help the parties reach a voluntary agreement by establishing or strengthening trusting relationships, reducing costs and psychological harm. (MOORE, p. 28 , 1998B.)

There is indeed a growing sense that this difference is represented in the many domains of mediation delivery now operating within the civil judicial system. Civil and commercial disputes, for example, can be classified as settlement-led. As Genn's findings from the pilots indicated, the primary goal is frequently to reach an agreement on a financial basis. Parties participate in the process of principled negotiation that includes an element of bargaining with the assistance of a mediator. Anecdotal data suggests that civil and commercial mediators are more likely to guide and advise based on the information exchanged between parties. A directive approach is more

likely since a more significant number are likely lawyers who have incorporated mediation into their toolset.

According to Folger and Bush's 'Satisfaction' story, mediation is an excellent instrument for meeting human needs and minimizing suffering. Mediation is adaptable, informal, and based on mutual consent. It enables a thorough analysis of the issues, recasting acrimonious disagreements as shared challenges. Mediators level the playing field for discussions and the exploration of viable solutions, which are not constrained by legal regulations. Mediation can "create creative, 'win-win' outcomes that transcend beyond formal rights to solve problems and satisfy parties' demands in a given context" by employing an integrative, collaborative problem-solving approach. The goal is to reach a satisfactory agreement for both parties, and mediators prioritize this by taking a'settlement led' approach. In a considerable majority of commercial and familial disputes in the UK, this emphasis on finding a settlement can be seen. In these situations, mediation is increasingly being referred to as a "alternative" to a judicial ruling.

Mediation emerges to contribute to the reorganization of society, which through dialogue between those involved aids in the process of reorganizing family life, also following its historical evolution before society, making these new situations adapt in the best possible way, thus avoiding future problems. Moore (1996)

The 'Social Justice' or 'Harmony Story' is Bush and Folger's second interpretation. Conflict is defined as the breakdown of a desired and necessary social order that maintains and defines a broader society or group. It jeopardizes the community's critical network of relationships. Mediation is an "efficient technique of organizing individuals around shared interests and, as a result, strengthening community bonds and structures." It aids parties in viewing the problem from several viewpoints, stimulates the recognition of common ground, and strives to reestablish critical relationships.

The "Transformation Story," as indicated above, sees conflict as a crisis in human interaction that undermines both autonomy and social connectedness. People feel empowered and regain a sense of self-determination when expressing, exploring, and clarifying their viewpoints. It becomes easier to recognize 'the other,' as well as understand and accept their stance. As a result, engagement between conflicting parties becomes a positive rather than a terrible experience. Transformative mediators consider their primary job to ensure the quality of people's interactions and assist them in achieving recognition and empowerment. Thus takes precedence over reaching an agreement or restoring the relationship, which are options available to the parties. A positive conflict dynamic could also lead to a deeper understanding of differences.

According to the 'Oppression' Story, mediation is a technique that enhances the state's authority over the individual and the strong's influence over the weak. Because of the process's informality and consensuality, it can be used as a quick and low-cost substitute for regular judicial proceedings, 'expanding the state's control into hitherto private spheres of social behaviour.' Furthermore, the mediator's 'posture' of neutrality renders her powerless to resist intimidation and manipulation.

Those who are dismissive of mediation, according to Folger and Bush, say :

" ... in comparison with formal legal processes, mediation has often produced outcomes that are unjust – that is, unjustifiably favourable to the state and to stronger parties."

2.2 Mediation Process in Family Law in Ireland

Despite the fact that mediation plays a modest part in the Irish family law system, there is a policy consensus that more couples should indeed be encouraged to mediate, and that improved mediation rates will lower the number of people seeking to challenge through the courts. This position is reflected in the Mediation Act 2017, which assumes that providing information about mediation would enhance acceptance and that mediation is a viable alternative to litigation in most civil disputes.

Since 1989, mediation has been a part of Ireland's legal framework for all-issues separation and divorce, and the state has funded free family mediation services since 1986. (Conneely, 2002, p.1).

The low level of engagement with mediation is viewed as problematic by decision makers and commentators who view mediation as an alternative dispute resolution mechanism capable of diverting possible future litigants aside from solicitors and the court system (Coulter, 2009, p. 119; Conneely, 2002, p. 87).

When introducing a Mediation Bill to the Dáil in 2017, the Minister for Justice and Equality stated that its goal was to promote mediation as a "viable, effective, and efficient solution to court proceedings." The presumed benefits of mediation in family breakdown are well known, but as mentioned by Hazel Genn, these advantages are generally expressed in opposing party to the disadvantages of litigation (Genn, 2010, p. 196),

Giving a boost to the now deeply embedded policy assumption that mediation is an alternative to lawyers and litigation. In its 2008 Consultation Paper on Alternative Dispute Resolution, the Law Reform Commission, for example, refers to mediation as fostering cooperation, autonomy, cost savings, long-term agreements, and privacy, as opposed to the legal process, that also impose higher, professional control, higher costs, less long-term solutions, and less privacy (Law Reform Commission, 2008, pp. 175-176).

In order to boost the use of mediation in family conflicts, policymakers have targeted potential litigants with information about mediation and its benefits. The Commission on Legal Reform The Law Reform Commission (2010) advocated mandatory mediation awareness sessions for aspiring family law litigants as a strategy to enhance participation in its 2010 report on Alternative Dispute Resolution (Law Reform Commission, 2010, p. 108).

In 2016, the Minister for Justice and Equality announced that a future Mediation Bill would require parties desiring to commence legal proceedings in family law disputes to attend a meeting where

mediation and its benefits would be explained. A scheme for providing (non-mandatory) sessions to family law disputants may include information on 'the benefits of mediation versus court-based settlements in respect of the relevant conflict.' A solicitor working for the applicant in a civil dispute must also advise the client to explore mediation as a means of settling the issue and notify them of the 'advantages of resolving the dispute other than via the proposed proceedings' (Section 14).

The Judicial Separation and Family Law Reform Act 1989, the Family Law (Divorce) Act 1996, and the Guardianship of Infants Act 1965 were amended in Committee to remove some family issues from this section's application.

These regulations state solicitors who are taking or defending proceedings underneath those Acts to explore the possibility of participating in mediation to settle their disputes with their client.

The advisory council stage amendment to the 2017 Act will also mandate solicitors to provide information about the confidentiality of mediation and the enforceability of agreements, as well as to complete a statutory declaration confirming that the information was provided. Section 14 of the 2017 Act, on the other hand, continues to apply to child and marital maintenance disputes. Although information meetings have largely been phased out, the liability on solicitors to promote mediation has been re-enforced.

In the context of Irish all-issues divorce disputes, the proposition that releasing information on mediation will encourage more people to mediate and the implication that mediation can provide an alternative to litigation are challenged.

The Irish Legal Aid Board is Ireland's sole provider of family law services, providing publicly subsidized legal advice and aid on a means-tested basis, mostly through its countrywide network of direct employees solicitors. It now has pilot programs in place at certain of its locations that require persons seeking legal help in specific family law cases to undertake a mediation information meeting before receiving a legal aid certificate.

The Irish government's method of promoting mediation through family law practitioners has the advantage of guaranteeing that clients obtain at least rudimentary legal advice before being given mediation information. However, most family litigants are unrepresented, mainly in child custody and maintenance cases, and the 2017 Act's structure provides no method for providing legal counsel or mediation assistance to these litigants. The available information system was set up since 1989, and its ineffectiveness un promoting mediation among family litigants is evidenced by the low uptake of mediation within family plaintiffs. According to the experience in England, a more directive method is also unlikely to enhance mediation participation.

2.3 Family Mediation Services

In Ireland, family mediation is provided by both the state-funded Family Mediation Service and private mediators. Increased awareness of mediation and more referrals to mediation from legal advisors and judges have helped to increase acceptance in recent years. Another reason for the rise in mediation's popularity is the financial crisis, and the widespread economic hardship individuals face. Many divorcing spouses are now discovering that they can no longer afford the high legal fees connected with family court proceedings. Instead, they choose mediation as a more cost-effective alternative. In addition, choose mediation as a more creative means of dealing with difficulties complicated by financial circumstances.(Corry,2011)

Family Mediation services provided by the Board assist couples who have decided to split or divorce, who have previously separated, or who have never lived together but have a child together in negotiating their own terms of agreement, taking into account the needs and interests of all parties involved. The objective of the mediator is not to provide solutions; rather, it is to make it easier for the disputants to seek their alternatives.

The Board has sixteen family mediation offices in total. Six of these are co-located with law centres: Jervis House, Dundalk, Tallaght, Kilkenny, Letterkenny, and Portlaoise. The service also includes one full-time court-based service in Dublin's District Family Court (Dolphin House). Part-

time court services are available in Cork, Naas, Ennis, Dundalk, Limerick, Nenagh, Carlow, Sligo, and Letterkenny.

The Legal Aid Board, the state's largest provider of family legal services, has a more nuanced view of the relationship between mediation and litigation, pointing to mediation as an alternative to 'contested court cases' and the possibility of ‘synergising' the board's legal and mediation services (Legal Aid Board, 2020, p.12). Nonetheless, little has been done in practice to articulate this understanding, and the Board, like the government, pursues a policy of participating in mediation outside the framework of dispute and legal advice by providing information on the benefits of mediation.

As seen in Chart 2, family law is the most popular area in which the Board offers legal services. In 2020, private family law cases accounted for 68 percent of all cases handled.

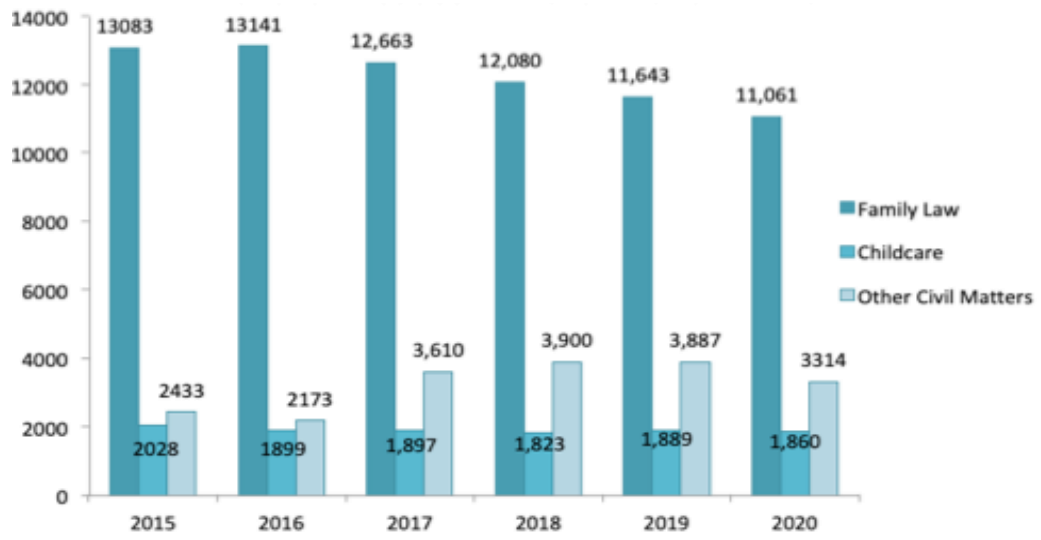


Figure one - Chart 2 Cases Handled: 2015 - 2020

In total, 1,590 additional cases will be sent to mediation between now and 2020, resulting in 11,355 sessions, including information sessions for only one side. As a result, 916 official written

agreements were reached. A total of 2,687 mediation cases will have been completed by the year 2020.

Both detailed written agreements and recordable conversational agreements are included in the number of agreements documented. It excludes interim agreements, partial agreements, and outcomes where the parties agree and do not want anything documented; this includes circumstances when the parties have reconciled or resolved a specific communication issue or misunderstanding that is now regarded resolved.

In 2020, 1,091 new cases were started in general family mediation offices, including 343 cases referred to the family mediation service from a legal centre, and 7,563 mediation sessions were attended. In 2020, 581 mediated cases reached a formal agreement.

In 2020, 251 court-based mediation cases were filed, resulting in 1,886 mediation sessions and 162 formal mediation agreements. Case counts were impacted by court closures during COVID-19 constraints. As a result of the COVID-19 pandemic, the total number of new cases and the number of cases closed in 2020 are considerably lower than in 2019.

Following the nationwide lockdown in 2020, the Board issued an emergency phone number and an online mediation service to parents who just had access and maintenance issues. There were 733 information sessions in total. There were 1,906 mediation meetings, with 173 formal agreements reached.

The Legal Aid Board Annual Report 2020:

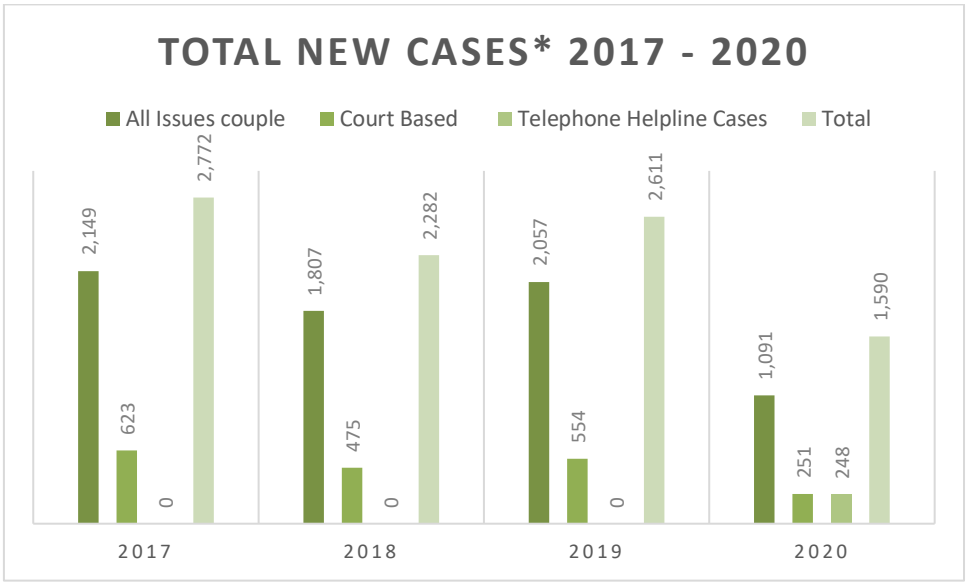


Figure TWO - total new cases - 2017 – 2020

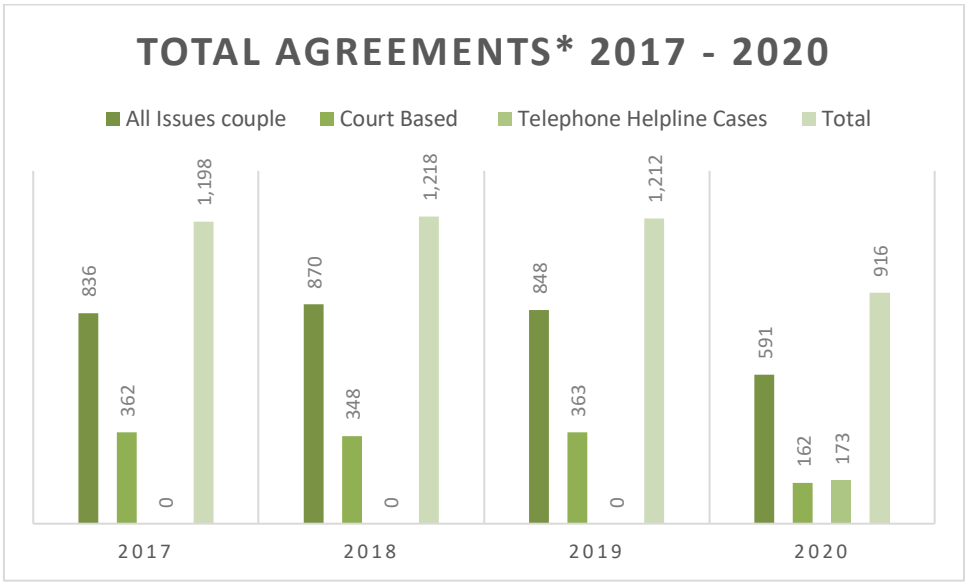


Figure three - total agreements - 2017 – 2020

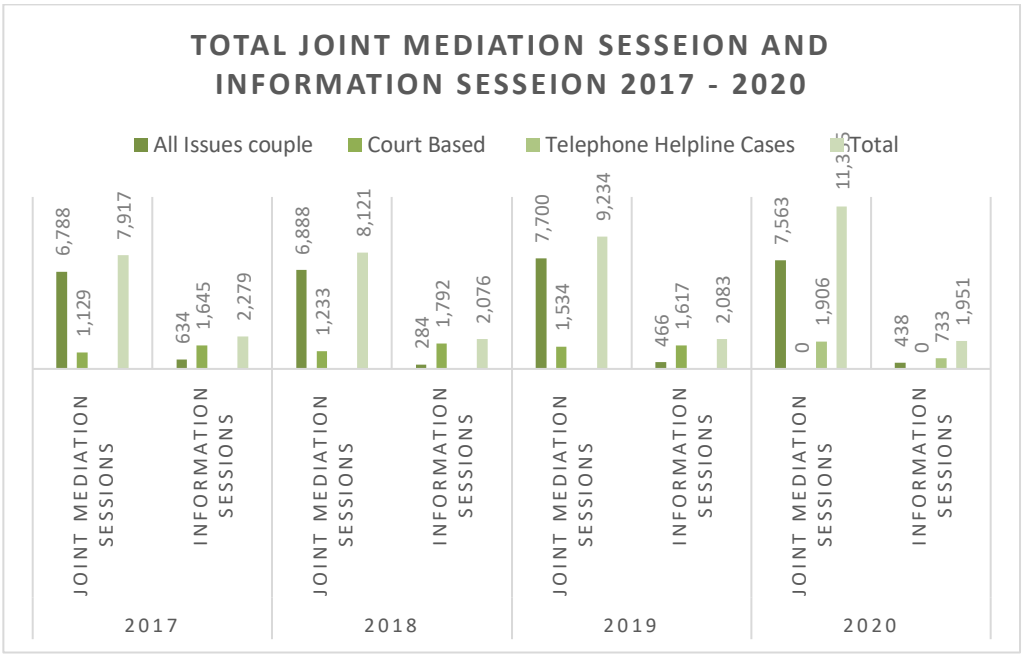


Figure fourth - total joint mediation session and information session 2017 - 2020

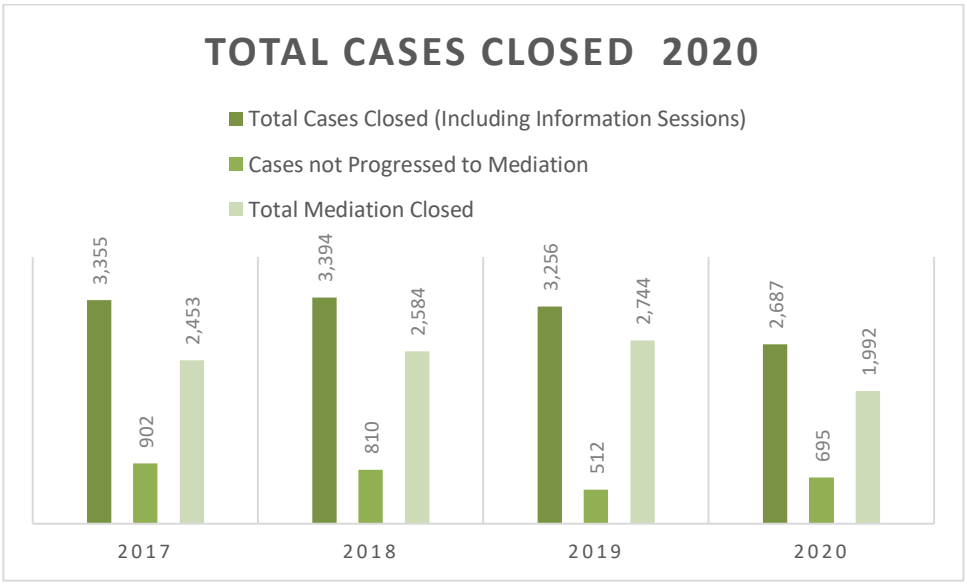


Figura quinta – total cases closed 2020

Regardless of the fact that family mediation is used in a wide range of cultural, political, and social situations, there are many parallels. This analysis of family mediation statistics from The Legal Aid Board Annual Report 2020 will allow us to compare the FMS's contribution in Ireland to other countries. On the other hand, family mediation is a result of social growth and is influenced substantially by cultural standards and each country's distinct family separation tactics.

Ireland's specific cultural, religious, and legal factors have moulded the Family Mediation Service, which should not be disregarded when comparing mediation procedures in other states. Furthermore, Mediation is done in various situations by a variety of professionals with diverse backgrounds and talents, who utilize different models and are driven by diverse theoretical perspectives, considering the complexity of these assessments.

2.4 Law Reform Commissions Alternative Dispute Resolution: Conciliation and Mediation

There are specific means of consensual conflict resolution in the legal environment. That is, conciliation, as opposed to mediation, focuses on an impartial third party who assists the litigants in reaching an agreement.

Conciliation and mediation are carried out in the field through the composition of controversies, rather than through a court decision articulated by a state agency that supplies the parties' will.

Mediation and conciliation are non-judicial approaches of resolving disagreements between parties and reaching an agreement. The clarification of the issue allows non-opponents to differentiate between the two procedures, reinforcing the notion of mediation's benefits in settling family problems.

In social disputes, the application of alternative measures such as conciliation and mediation is addressed. According to Spengler (2017, p. 69), it "may occur concurrently with or prior to the judicial process."

In each situation, the mediator's role, as well as the purpose and objectives of his actions, differ significantly. The goal of mediation is to "celebrate" the agreement reached between two parties, even if one of them is an adversary, in order to avoid legal proceedings. In mediation, the parties cannot be viewed as adversaries, and an agreement will either be reached or not.

According to Almeida and Pantoja (2016), the third party has additional functions during conciliation, such as making suggestions and suggestions on contentious issues, as well as

expressing opinions. In mediation, the third party only serves as a facilitator of the dialogue, and each party is responsible for the protagonist in the settlement and authorship procedures. These alternative methods, however, are intended to reduce the burden on the judiciary, even if this is not the ultimate goal or the best option. However, some believe that after extensive discussion, the two parties will reach a mutually agreed-upon alternative to the court's decision. Reconciliation, like mediation, is an effective method because it recognizes the parties' true needs, resolving the problem completely.

Conciliation is usually an agreement, with the goal of resolving and eliminating disagreements, even if the two parties' relationship is still antagonistic. Mediation encourages open and honest conversation between the parties, and the agreement is the product of such communication because mediation could not agree on a successful way.

The name itself allows us to understand what judicial mediation is, it takes place in legal action, and it can take place in any area of the legal system. It has the coordination of a judicial mediator and, following its commitment, allows any party to appoint a judicial mediator for five days after the appointment. Moreover, apply the rules for adjusting the remuneration and responsibilities of specialists.

Mediation opens the participation of third parties, who use suggestions, suggestions and information to design possible solutions for the parties to discuss and analyse.

In conciliation, the objective is the agreement; as long as the parties are opponents in the conflict, they must reach a consensus to avoid judicial procedures, that is, judgment procedures. Because the conflict resolved is exposed, the Mediator must not understand deeply .

As a result, it is critical to understand that mediation is not a dispute between people, ignoring rather than transforming, as the Mediator plays the role of a negotiator, in order to amortise the relationship between the two parties in the relationship dispute (WARAT, 2001, p. 80).

Conciliation, on the other hand, necessitates a straightforward approach to the problem, even if the ultimate goal is to establish an agreement that would eventually end the disagreement, even if it does not meet all of the parties' expectations. As a result, it is not recommended for usage in the context of family problems. In this instance, it necessitates a specific intervention and is unable to meet all parties' reciprocal concessions.

Mediation aims to resolve conflicts speedily and to take the lead in problem solving. There is still a new way of looking at needs and promoting personal and social justice, as well as opportunities for peace.

Mediation offers a broader and more profound approach to conflict resolution through consensus.

The parties involved in the conflict seek to reach an agreement with the assistance of a mediator, an impartial third party with no decision-making power.

According to Bush & Folger mediation "is an informal, voluntary process in which a neutral third party assists people with diverse interests in resolving their issues."

Mediation is a method of dialogue and self-combination founded on interdisciplinary scientific knowledge drawn from psychology, communication, sociology, legal anthropology, and systems theory. His art is also the Mediator's skill and sensitivity.

Dário Moura Vicente (2009, p. 390) defines mediation as a "voluntary process in which the parties seek, with the assistance of one or more third parties without decision powers, to reach an agreement in order to end a dispute." Furthermore, Spengler (2016) teaches that mediation is not an invasive, domineering procedure that accepts domineering gestures; she seeks respect and understands the space of the other.

Mediation is successful because of the Mediator's efficiency and dialogue. Even if no agreement is reached, people can resume appropriate communication as a result of handling the relationship in a mutually agreed-upon manner. Nonetheless, restoring trust and a sense of commitment

between the two parties can result in a jointly negotiated response and a new stage in their intimate interaction (TARTUCE, 2017).

Conciliation differs from mediation in that the conciliator interacts with two claims, searches for a common space that incorporates competing claims, makes public proposals, and then agrees on probable co-authors of the material. If the mediation is effective, the mediator can also function as a negotiator of the recommendations made by both parties, instinctively attempting to resolve the issue in which each side abandons the initial objective, gives in, and reaches a comfortable and satisfying position..

The conciliator, who may be the proposal's author or co-author, will not impose on the parties, but will only provide proposals on how to resolve the disagreement through the parties' own voluntary assent.

Through mediation, however, the situation is different; the Mediator does not make any suggestions; rather, his role is to facilitate the resumption of the dialogue by attempting to understand the opposing point of view and, putting oneself in the shoes of the other, and attempting to form an idea, a feeling that the ideal solution for that circumstance is to have a balanced solution, which conceives a value justice for both one and the other party.

However, in the Mediation process, the Mediator does not make any suggestions. The role of the Mediator is to facilitate through dialogue while also attempting to make each party understand the opposing point of view and putting one in the place of the other, and attempting to form an idea, a feeling that the ideal solution for that circumstance is having a balanced solution, which conceives a value of justice for both one and the other party.

In this way, all parties can consider everything from the perspective of all participants, consider the internal and external factors of the conflict they experienced and seek solutions here, building an approximate area and being more viable for both parties.

Both mediation and conciliation are helpful since they involve the participation of a third party to aid in the negotiation's direction (Mediator or conciliator). The critical distinction is in how the discourse is conducted. The conciliator offers his opinion, advice and intervenes in the final decision so that the problem can still be resolved between the actors. Moreover, the Mediator only conducts and harasses the parties' interchange of ideas, strives to demonstrate concurrent opinions, and operates in such a way that both sides are constantly exposed.

There is a more active third party in Conciliation who can make comments and recommendations on the disagreement and issue an assessment. In mediation, the third party serves merely as a facilitator of the dialogue. It evaluates the roles of the parties in the process as well as the author of the solution.

Typically, different meetings are held during mediation. During these meetings, the facilitator contacts the appropriate people and asks them pertinent questions. During these discussions, he assists in reducing opposition from competitors so that they may reach an agreement. Break the stalemate. Conciliation, on the other hand, is used to ensure that the Mediator encourages the parties to create and implement an agreement in one or two meetings.

The most major distinction between Mediation and Conciliation is the content of each institution. Because the purpose of mediation is an agreement, even if the parties face adversity, they must find an agreement to prevent litigation. The parties do not have to be considered adversaries in mediation, and the agreement serves as a communication vehicle.

In Conciliation, the conciliator makes recommendations, intervenes, reminds the parties, stimulates discussion, and does not force the parties to achieve an agreement.

Conciliation is not the same as mediation. Although both are negotiating techniques aided by a third party with no decision-making authority, mediation is a more straightforward and more

objective procedure that allows the Mediator to act more compassionately while presenting and expressing their viewpoints.

As a result, the conciliation procedure is less suited to family problems than mediation because it is more uncomplicated and resumes the conflict with the previous bond gap between the parties. As a result, mediation is primarily concerned with restoring communication; it promotes a sense of equilibrium and healthy coexistence, which is critical for the recovery of family connections following a breakup.

2.5 Mediation as an alternative to litigation

Mediation differs from traditional judicial proceedings in many ways, and it is regarded to have significant advantages over such hearings. A judge orders a conclusion in a court case, whereas the parties develop the decision or settlement themselves in mediation. A court proceeding is normally open to the public, and the decision is public record, whereas a mediation is held in private, and the proceedings are supposed to be secret.

Mediation is a type of voluntary ADR, Mediation is a 'without prejudice' negotiation process, meaning it cannot be referred to in open correspondence, or in court, prior to judgement (Nigel, 2009).

Mediation as a means of resolving building disputes is not a new trend. It can be used to resolve a wide range of issues, despite its limited application and efficiency. When the parties do it on their own, it appears to be a better option to litigation (Gould, 2009).

Although mediation is not a perfect solution for all marriage breakdown issues, it can help identify and resolve issues when the relationship at the heart of marriage fails. Mediation can help former spouses improve their communication and cooperation on financial and child-related issues in family law disputes (CONNEELY, 2002, p. 16; LAW REFORM COMMISSION, 2008, p. 175; BARLOW, 2017, p. 204; KELLY 2004).

The purpose of the Family Mediation Service, which was formed in 1986, was to support families. Government assumptions about mediation have recently shifted to reflect the belief that it may resolve a significant portion of family disputes without resorting to the courts. This expectation, combined with a solid cost-cutting purpose, led the British government to withdraw legal aid funding for most family-related issues. Despite the continuous emphasis on mediation as an alternative to court, no genuine attempt has been made to harness the benefits of mediation for couples and families going through a full-blown divorce in Ireland.

The Mediation Act 2017 does not encourage innovation in conflict resolution services. The Act conflates family law conflicts with regular civil disputes, ignoring the distinctive constitutional and statutory framework controlling marriage and its breakdown, preventing private ordering. A non-adversarial resolution of family disputes is desirable, and the necessity for rapid resolution of all such disputes is necessary to save expenses.' However, the information provided on mediation as an alternative to attorneys and litigation will not accomplish that goal under the current constitutional and statutory framework.

If supplementary relief is more rule-based, there is more consistency in the courtroom, allowing for more private bargaining (O'Sullivan, 2016A, p. 118).

Private ordering and self-representation are both problems within the current legal framework. While mediation can help in some situations, it is not a panacea. The intensity of contention in some circumstances eliminates the prospect for an agreed strategy to dispute resolution through mediation.

Even if the spouses can agree on everything, a mediated agreement will not dissolve the marriage's legal links. Mediation can help dispute family members regardless of the legal structure (KELLY, 2004). However, it must be viewed as a different dispute resolution technique rather than an alternative for Solicitors and litigation.

Chapter 3 - Structure of Family Mediation Process
3.1 The Four Principles of Family Mediation

A) Voluntary

As per Title 6 (1) of the Mediation Act 2017, "parties may engage in mediation..." and Title 6(2) says clearly that "participation in mediation must be voluntary at all times." The voluntary nature of Mediation also mentioned in Title 6 (2), which states that "participation in mediation must be voluntary at all times."

Head 16 (1) goes on to state that "a court may... when it considers it appropriate... (a) invite the parties... to consider mediation," which means that "a court may... when it considers it appropriate... (a) request the parties... to consider mediation." and that a judge may "provide the parties... with information on the benefits of mediation..." under section 16 (2).

According to Section 17(iv), "if no mediation agreement is reached, a declaration as to whether, in the mediator's opinion, the parties are fully participating in mediation" must be presented to the court (where the parties have opted to re-enter the legal process) for consideration. However, while the word "inviting" in Header 16 (1) appears to indicate and endorse the voluntary nature of willingness to participate in Mediation, Header 17 suggests that the court may favour parties who did not fully participate in the mediation process, which is a slight departure from the prior understanding. This can be not easy in terms of voluntarily participating in and remaining in the process.

Further emphasizes that entering into Mediation does not obligate the parties to settle: they can quit willingly without repercussions and return to their litigated case at any moment. This is where the genuine meaning of "volunteering" emerges and is crucial (ALLEN, 2011, p.2).

Does Head 17(iv), on the other hand, support the true notion of voluntariness?

The MII Code of Ethics and Practice (Mediation Institute of Ireland, nos. 61, 62) acknowledges voluntary participation and states that any participant, including the mediator, may leave the process at any time without explanation.

While Judge Hughes pushed the parties to participate in Mediation, he will have no control in the process or the outcome; once the parties participate in the process, voluntariness will return to and remain with them. One must consider if this achieves a reasonable balance or whether limiting voluntariness is a step toward eliminating the principle's core character.

Could allude to a possibility where, in some situations, an obligation or discretion, as in the case of the judiciary, could eventually open the way for some form of compelled Mediation, which would violate one of the essential principles of Mediation, namely voluntariness. Solicitors and barristers are also asked to disclose information and advise on Mediation under sections 14 and 15 of the 2017 Bill. When applying to start civil proceedings, a written statement indicating that Mediation has been regarded must be presented to the court; if such a statement is not being used, the court may postpone the case until such a statement is given.

B) Impartiality and Neutrality

Neutrality and impartiality are "fundamental to our concepts of fairness and justice," according to much of the literature on mediation and law (Astor, 2007, p. 221- 223). However, whether mediator neutrality is conceivable raises some distinct problems.

The parties involved in Mediation must determine the outcome of the process, according to Head 6(9) of Ireland's 2017 Bill; whereas this section mainly relates to the principle of self-determination, it also ties in with impartiality/neutrality; the mediator must remain impartial to the parties and neutral to the process in order for the parties to determine the outcome.

According to Moore (2003, p. 53), impartiality is "the lack of bias or favouritism in favour of one or more mediators, their goals, or the practical solutions that they are promoting".

He defines neutrality as "the relationship or behaviour of the intervenor and the disputants" (ibid.). The MII Code supports this viewpoint, emphasizing that the mediator must not take sides in the dispute (Code of Ethics and Practice no. 56). The MII code further recommends that the mediation process be ended if the mediator believes impartiality cannot be preserved (Mediation Institute of Ireland, no. 56).

While the fundamental rule of neutrality is a sound one on paper, Bradley (2016, p.1) contends that the pursuit of neutrality raises a slew of issues in practice. As a voluntary process, the particular success of Mediation depends on all parties getting confident that the mediator would facilitate the process somewhat and impartially.

Although mediators are supposed to operate as unbiased "neutrals," they really play a considerable influence in the decision-making process. According to research, whether purposefully or accidentally, a mediator has an impact on the final agreement reached by the parties. Mediators, unlike legal counsel, are not permitted to provide legal advice.

However, because the mediator frequently expresses an explicit view or evaluation as the mediation progresses, the parties may see the mediator's ideas and inquiries as authoritative or as a legal opinion (Hughes, 2001).

According to Mayer (2004, p.17), they desire to aid, advocacy, guidance, power, resources, connections, or knowledge. While a mediator may declare their intention to work impartially, sustaining this posture will undoubtedly be challenging.

According to Bradley (2016, p.1), the reason for this is that mediators, as humans, are unable to entirely separate from any opinions or feelings regarding the disagreement or parties.

Fisher describes a neutral mediator as "a eunuch from Mars, completely impotent" (Hung, 2002, p.1, endnote). Hung wonders what happens if the mediator needs to be 'biased' to be neutral and

impartial on a higher level of ethical consideration. Should he, she, or it stays a Martian eunuch and maintains an outwardly neutral and unbiased stance, or should he act on the conscience?

Hung (ibid.) inquires about the client's right to self-determination. Should the mediator interfere or stay neutral and unbiased if one of the parties perceives the agreement as unfair or unethical? Head 6 (3) (a) of the 2012 Bill focuses on the right to self-determination, making it clear that the parties themselves determine the outcome of the dispute. Nos. The MII's Code of Ethics emphasizes self-determination as a fundamental principle of Mediation, making it clear that the parties own the content and outcome of the Mediation (Mediation Institute of Ireland, nos. 59-61).

Beck and Sales (2000) questioned whether private mediators are impartial in their work and whether mediation is the best method for resolving certain family issues. The authors point out a number of factors that can influence a mediator's impartiality, including the possibility that mediators are motivated by the assumption that all family issues should be resolved quickly. To put it another way, mediators may rush a settlement to promote the perception that mediation is a more efficient approach to resolve disputes than the lengthy and backlogged court procedure (Beck & Sales, 2000, p. 1009).

According to Cloke (2001), "there is no such thing as genuine neutrality when it comes to conflict; everyone has had conflict experiences that have shifted his or her perceptions, attitudes, and expectations, and it is precisely these expectations that give us the ability to empathize with the experiences of others" (p.12).

Cloke contends that true fairness comes from using the past to gain an open, honest, and modest perspective on the present (ibid.).

Steier (1991) favours self-reflexivity, defined as the "turning back of one's experiences upon oneself and being cognizant of ourselves as we see ourselves" (pp.2-5). Self-reflexivity

recognizes that our practices are culturally particular, not neutral, and requires the mediator to be "clear about the operation of power" (Ribbens, 1989, p.162)

Prince, S. (2009) "ADR after the CPR: Have ADR initiatives now assured mediation as an integral role in the civil justice system in England and wales?" in Dwyer, D. (ed.) The Civil procedure Rules Ten Years on. Oxford University Press Ribbens ,J. (1989) "Interviewing: an 'unnatural situation'?", Women's Studies International Forum, 12 (6) and cognizant of their powerful position in the mediation process (Bagshaw, 2015, p.7).

The reflexive mediator takes a non-hierarchical attitude and collaborates with clients in a more collegial, partnership capacity (ibid.).

While the 2017 Bill states that a mediator must operate impartially, Head 7 also allows a facilitative process to turn into an evaluative process. A facilitative method demands that a mediator does precisely what it says on the box, namely, facilitate a process for resolving conflicts by allowing parties in conflict to have an open dialogue that leads to a mutually agreed-upon solution. Evaluative Mediation and transformative Mediation are two more approaches that a mediator can take. The first method addresses the flaws in each party's case and focuses on legal rights rather than interests; in this scenario, a mediator can directly impact the outcome. The transformative method focuses on empowering parties to move from a weak to a strong position.

When using an evaluative technique, Bradley recommends that a Mediator leave signals about their point of view (ibid. p.1). She claims that the reality testing, questioning, and coaching required to settle nearly invariably include the mediator taking and expressing a viewpoint or attitude that favours one or more parties. A mediator's ability to strike a balance in this situation is precious. According to Bradley, the parties must believe in a certain level of justice (ibid., p.2).

The most important thing for any mediator to do at the start of a process is to outline that the mediator may meet with or phone the parties individually so that they are both aware of the prospect of a separate engagement.

There is nothing in the MII's Code of Ethics and Practice no.57 that prohibits the mediator from calling, communicating, or meeting with one party separately or without the knowledge of another party, provided that this possibility is explained to the Parties and impartiality and neutrality are maintained.

"Balanced" Mediation will necessitate a commitment to protecting both parties. Bailey (2014, p.1) cites Benjamin (1998). If mediators are unduly constrained by procedural requirements for a strictly impartial process, they will lose their ability to design a process that answers clients' needs (Taylor, 1997, p. 222).

According to s. Astor (2007), mediators can "do neutrality" in a way that accepts the parties' perspectives while also honoring the mediation process' basic qualities (p. 226). She thinks that there should be a distinction made between neutrality and impartiality. She says that while mediators will invariably bring their own point of view or bias to the process, they can nevertheless act impartially toward the parties and the conflict. “While it is acknowledged that mediators would invariably bring their own opinions to mediation, it is also maintained that they will treat all parties equally” (p. 227)

Similarly, suppose mediators begin pressuring clients into positions they do not want to adopt or preventing them from reaching freely chosen agreements. In that case, the process may no longer be impartial at all (ibid.). Taylor emphasizes the incredible talent of striking a balance above, stating that the expertise lies in knowing when and how to intervene without jeopardizing the entire process; such a skill is the "hallmark of a reflective and skilled practitioner" (ibid.). The right of both parties to reject any conclusion they deem unfair is crucial to the concepts of voluntariness, impartiality, and self-determination.

C) Confidentiality

The confidentiality principle ensures that the mediation process remains confidential. As a process protector, the mediator has the responsibility of avoiding transferring the conflict to a third party. Only when the parties agree can confidentiality be breached.

All communications (including oral statements) and all notes and records relating to the mediation are confidential and will not be disclosed in any proceedings before a Court under the Mediation Act 2017. However, where disclosure is required to implement or enforce a mediation settlement, confidentiality will not apply. Disclosure may also be required by law to protect a party from physical or psychological harm or prevent the commission or concealment of a crime.

It's all about protecting the privacy of information, proposals, documents, and declarations, as well as all records created during the process. They can only be utilized in the conditions that have been discussed and anticipated with all parties involved. The notion of confidentiality is one of the most essential rules that regulate the mediation process.

Confidentiality is one of the most distinguishing and essential principles of mediation. Maintaining the confidentiality of the mediation session is critical so that the mediators feel safe in exposing their arguments, claims, needs, and interests.

In this sense, the guarantee of confidentiality allows parties to expose their actual points of view and real intentions without fear. The principal guarantees that what is said will not be used to their disadvantage in the future.

Section 10 of the Act states that all communications, records, and notes relating to mediation are confidential and shall not be disclosed in any proceedings before a court or otherwise, except for where required for a mediator to provide a report to the court where mediation was begun at

the court's request, or where disclosure is: necessary to implement or enforce a mediation settlement, necessary to prevent physical or psychological injury to a party; the commission of a crime (including the attempt to commit a crime); the obstruction of either a crime or a risk to a party.

However, evidence introduced into or used in mediation that is otherwise admissible or subject to discovery in proceedings shall not be or become inadmissible or protected by privilege in such proceedings solely because it was introduced into or used in mediation.

The duty of confidentiality applies to the mediator, the parties, their agents, lawyers, technical advisors, and other people they trust who have directly or indirectly participated in the mediation procedure.

1. a statement, opinion, suggestion, a promise or proposal made by one party to the other in the search for an understanding of the conflict;
2. acknowledgement of fact by either party in the course of the mediation proceeding;
3. expression of acceptance of an agreement proposal presented by the mediator;
4. Document prepared solely for the mediation procedure.

Thus, by the principle of confidentiality, all information posted during mediation sessions is confidential so that no record is kept of what was said during the sessions (ROSA, 2012).

It is worth noting that Section 19(1) of the Criminal Justice Act of 2011 states:

"A person is guilty of an offence if he or she has information that he or she knows or believes could be of material assistance in—preventing the commission of a relevant offence by any other person, or securing the arrest, prosecution, or conviction of any other person for a relevant offence, and fails to disclose that information to a member of the Garda Sochána as soon as practicable."

As a result, the judge who will approve the mediation term in the future will only have access to the term itself and will be unaware of the reasons that led to that agreement. Furthermore, the mediator will not testify in court, nor will he act as an attorney for either party.

This concern with defining the principle of confidentiality stems from the legislator's goal of encouraging the parties to take a proactive stance in the mediation process, without fear of what is suggested, debated, commented on, being made public or taken to the process's judge, so that any prejudice to the case may occur in the absence of an agreement.

Mediation is a mechanism that facilitates the formulation of solutions by the parties themselves, solutions that can go much beyond those supplied by the mediator.

Equal parties who are fully educated and competent in making decisions should not be unnecessarily overseen or stopped from reaching agreements just because they are fearful of the mediator, especially when this can lead to noncompliance with the values they subscribe to, such as good faith.

Without the written consent of the mediators, the mediator does not disclose the information mentioned by the mediators to another person or body. The mediator cannot also be a witness for either party. It must be made clear to both parties that the confidentiality of mediation is not absolute.

D) Self-Determination

According to Mary Radford (2002), "A mediator is subject to several conditions under the self-determination principle. Among these requirements is that the mediator guarantee that all parties can participate in the process. If one of the parties lacks the capacity to engage, the Mediator is expected not to begin or discontinue the mediation. However, determining capacity is a difficult task, and the repercussions of finding that a party is incapacitated are severe." (p.648)

Because mediation gives the parties the final power to decide how to resolve their conflict, party self-determination is the primary characteristic distinguishing it from litigation and other dispute resolution approaches. The duty of a mediator is to use their experience to enable and empower the parties to make their own decisions. Mediation has a unique and distinct feature.

The parties should decide whether or not to stay and any awaiting outcome; this embodies both voluntariness and self-determination. However, in the author's perspective, if the parties are regarded to have not fully engaged in Mediation, the court may frown upon them, as evidenced by the mediator's declaration presented to the court. This could have ramifications for the parties in terms of being able to properly exercise self-determination, Alas well as having an impact on the participants' belief in the mediator's neutrality when the mediator is asked to submit such a declaration to the court.

In mediation, party self-determination is unique in that it is relationally anchored in connection, cooperation, and collaboration. This concept of self-determination differs significantly from an atomistic definition of autonomy, which places a premium on privacy and self. Because each side is pressured to advocate entirely for their own interests, an atomistic concept of self-determination may underpin the adversarial judicial system. However, in mediation, party self-determination is comprehensive and relational, encompassing both parties' desires and interests.

3.2 The role of Mediator

In the conflict, the mediator must take an impartial, fair, and selfless posture, limiting himself to creating the necessary conditions for the two parties to communicate and achieve an agreement.

A mediator is a third party who provides face-to-face guidance and support to the parties. People are led by a strategy of constructing consecutive stages and focused on solving the problem. In contrast to mediation, which enforces a conclusion and ends the conflict, the mediator operates by expressing their thoughts and giving the key to addressing the problem. The fundamental

difference between the two mechanisms is the method used rather than the leader. (CALMON, 2007).

Communication has always been regarded as a means of exchanging ideas, feelings, and emotions. In this phenomenology study, verbal communication expressed by the family mediator was critical to comprehending their lived experience. Verbal designations indicated what family mediators thought was essential and what they listened for during the mediation process. There is an entire discipline devoted to communication aspects. Because family mediators use verbal and nonverbal communication to mediate conflict, communication's contribution was incredibly crucial as a critical talent in the family mediator's resources.

According to Moore (2003), the mediator's point of view and role in the mediation can be classified into three types: social network mediators, authoritative mediators, and independent mediators. The mediator's role can regularly influence and change the outcome of the mediation (Moore, 2003). Both parties know a social network mediator and who steps in to mediate the situation. In contrast to previous research (Bush and Folger, 2005; Della Noce, 2009; Gunnigle et al., 1997), this raises whether such a person is genuinely neutral and unbiased in this scenario.

According to Moore (2003), the second sort of mediator is an authoritative mediator, who is more superior or senior to the parties involved in the mediation. The final strategy under consideration is that of a neutral mediator. According to the literature, a mediator must remain objective and unbiased in the face of a dispute, and the Mediators' Institute of Ireland would suggest a neutral and independent mediator for a conflict (Mediators' Institute of Ireland, 2018).

The Mediator is responsible for facilitating and restoring dialogue between the parties while treating them equitably. The Mediator's conduct must be impartial, with no attempt to encourage all parties to seek a solution. As a result of the resumption of talks between the two parties, the primary purpose of their employment is to reach an agreement.

The Mediator also assists in removing adversity by giving the parties a productive discourse to reach an agreement. BREITMAN (2001, p. 55) The Mediator does not have the authority to decide or even influence the parties' decisions but must instead aid them in negotiating agreements, recognizing the key points that arise in the disclosed conflict facilitating proper facilitation communication between them. Thus, with the Mediator's assistance, the parties will attempt to comprehend the existing disagreement to reach a satisfactory solution for both parties.

According to Spengler (2017, p. 28), a mediator is a person chosen to perform the public responsibility of assisting litigants in resolving conflicts, and they must act impartially and privately. The Mediator should be someone with whom the parties may communicate candidly. The job of the Mediator should not be mistaken with that of a judge, because the Mediator does not make decisions but merely encourages and supports communication between mediators in order to reach an adequate understanding between both sides.

It also focuses on analyzing whether mediation is the most appropriate way to resolve family conflicts. If he believes the Mediator has no interest, malice or imbalance between them, the Mediator should close the meeting. The Mediator must resolve the feelings involved in the conflict in question to become more malleable from there. It must substitute one part for the other so that the dialogue can be re-established and a solution can be reached.

According to Calmon (2008, pp. 123-124), the Mediator's role is to be a facilitator, educator, or communicator. They aid in the clarification of concerns, the recognition and management of emotions, the generation of options, and the possibility of reaching an agreement without the necessity for aggressive courtroom fights. (...) Its function is to be a promoter, a builder of communication channels, a translator and disseminator of information, a reformer defined by positions and interests, a creator of options, and a real agent.

The Mediator, as a facilitator, cannot impose fines or solutions. Because this duty is dependent on the parties involved, the Mediator must satisfy without making a choice. The purpose of the Mediator is to mediate the issue through communication guidelines, focusing on the true cause and the true benefits sought. Mediators must undergo training and education that will enable them to gain the requisite experience to deal with the most diverse situations encountered in dispute resolution.

To better understand the Mediator's behaviour, it is necessary to describe the process and method of mediation. The process can be divided into two steps, explained briefly.

The first phase is pre-mediation, which starts with the referral of relevant personnel to the Mediator. At that moment, the Mediator called a meeting with all the relevant professionals and pointed out how they belonged to the process. Subsequently, the two parties carried out interviews so that the Mediator would make them aware of the absolute responsibility of the process, promote cooperation and mutual respect, listen carefully to everyone's needs and promote trust between individuals.

3.3 - Co-Mediator

Since family mediation first gained popularity, the standard model involved simply one mediator working with the couple. The creation of a co-mediation paradigm, in which a lawyer-mediator partnered with a non-lawyer-mediator, coincided with the advent of all-issues mediation. In the complex mediation process, the co-mediation model appeared to work easily and effectively: the presence of two mediators with complementary abilities and knowledge appeared to assist couples in engaging with issues on a variety of levels (Walker et al., 1994).

Co-mediation, according to this perspective, is a collaborative effort between a lawyer and a therapist. They can work together in two ways: the lawyer and therapist know the couple separately and focus on topics that pertain to their areas of expertise. These specialists consult with one another, yet they are unfamiliar with the relationship as a whole. Another method used

in this study is that the lawyer and therapist are both familiar with the marriage and collaborate. Through dialogue and conflicts that hinder negotiation, the therapist works with emotional/affective disorders. The lawyer is primarily concerned with financial and legal issues and does not represent either party.

They have different roles according to their training. Although the lawyer is more structured in his approach, he is not indifferent to the couple's emotional concerns (GOLD, 1984).

According to Haynes (2006), teams of mediators are formed, usually consisting of a man and a woman, to balance gender tensions that may arise in circumstances such as domestic abuse. This power balance is critical (Gee & Urban, cited by Flynn, 2005), and it requires the collaboration of specialists from several professions, such as law and therapy.

The advantages of the co-mediation experience, according to Strahl (2007), include more chances for debriefing following the session.

Both mentioned that the ability to track each other's efforts is a significant benefit. While co-mediation had several advantages, such as the ability to model conflict resolution, it was also costly and prone to "communication issues," according to Kranitz (1985, pp. 71-79)

Irving and Benjamin (2002) agreed that co-mediation has a lot of advantages, but they also pointed out that it has some drawbacks.

Both practitioners are actively engaged as invitees within the clients' family (informal) system and communicative environment in co-mediation, where their position is primarily that of facilitator, with empowering being a major purpose. Because family mediation requires disputants to make autonomous decisions, co-mediators must ensure that decisions made during the process respect individual autonomy while acknowledging that each client belongs to an idiosyncratic family system in which entire patterns of family interaction may be entangled.

Capítulo 4 - Family Mediation Process in Relationship Breakdown in Ireland

4.1 Alternative of Conflict Resolution Through Mediation

Access to justice is designed to enable people to assert their rights and resolve disputes. Therefore, in seeking the foundations of a just and egalitarian society, the Judiciary must be equally open to all and produce fair social and personal results (CAPPELLETTI and GARTH apud MINGATI; RICCI).

Conflict is inherent in society and is necessary for the evolution and construction of individual thoughts that constitute society. However, changes in legal culture and constitutional education to change the state of belligerence, including business and personal relationships, are based on the suggestions themselves, aiming to involve moral values and improve education and cultural ethics, leading to the possibility of search engines. These mechanisms can enable the pursuit of justice in ways different from judicial solutions

4.2 Advantages and Disadvantages of Mediation in the Family Scope in Ireland

Mediation has the following characteristics: speed, informality, the parties' autonomy of will, subjectivity, secrecy, effectiveness, feasibility, and conflict prevention.

The mediation procedure is simple and flexible, allowing the mediator's will and subjectivity to jointly build rules that meet the availability of the participants and their real needs, as they are familiar with the conflicts and make adequate proposals, reducing the risks of decisions imposed by third parties.

Several practical aspects of family mediation can be listed, which prove that using this mechanism is reasonable and the financial cost is significantly reduced, avoiding high solicitors fees that cannot guarantee a satisfactory solution.

Mediation has various benefits, and the mediator must demonstrate these benefits to the parties; in family law, it has proven to be an acceptable technique of resolving issues, encouraging communication and recuperation. Recognize the numerous changes in the familiar environment. Some disadvantages or scenarios, however, should not be exploited.

The main benefits of mediation are as follows: mediation saves time, money, and emotional strain for the parties due to the speed with which the problem is resolved.

Furthermore, it saves money on the costs of a lawsuit. Because mediation is a simplified, flexible, and informal method in which the parties' autonomy of will is emphasized, it is up to them to estimate the duration of the procedure and frequency of sessions/meetings; the speciality: the mediation procedure necessitates technical training and negotiation skills from the mediator, which are essential elements for facilitating dialogue between the parties and building solutions.

Confidentiality and privacy of information: except as required by law or previously authorized by the parties, the mediator is required to maintain the confidentiality of any facts, documents or circumstances that occurred during the mediation process and may not even serve as a witness in subsequent arbitration or legal proceedings; and legal certainty the agreement reached in mediation, the term is abbreviated and signed by two witnesses, constitutes an extrajudicial enforceable title, that is, if it cannot be performed spontaneously, it can be executed in court, or it can be decided by the parties and approved arbitration or judicial proceedings, in which case they will become the property of judicial enforcement.

Even though mediation is not a perfect solution for all divorce concerns, it does play a vital role in recognizing and addressing difficulties that develop when the human interaction at the heart of a marriage breaks. Mediation has an important pastoral or welfare function in family law conflicts by fostering increased communication and continuous collaboration between former spouses on financial and child-related issues (Conneely, 2002, p. 16; Law Reform Commission, 2008, p. 175; Barlow, 2017, p. 204; Kelly 2004).

According to Warat (2004, p. 58), the use of a mediator has the advantage of not requiring individuals concerned to make decisions or commit to their decision. Should the mediator comprehend the phrase "works to reconcile the divergent interests of the two adversaries"

The mediator steps in to assist the parties to the conflict in examining their interests and requirements, negotiating and exchanging compromises, and defining a mutually agreeable relationship that meets both parties' criteria of fairness (WARAT, 2004, p. 58).

These benefits of the mediator's performance for Warat (2004, p. 32), by other means such as judges, arbitrators, negotiators, the third party that assists in a conciliation, interfere, in various ways, in decision-making processes, and the jobs of interpretation for decision making. They attempt to make decisions in all of these scenarios by discussing legal rules, moral ideals, economic principles, and interests.

The primary characteristics of mediation are that it allows parties to manage the dispute in a confidential setting that is not prejudicial to any proceedings, and that it allows them to reach a mutually agreeable resolution rather than a 'imposed' outcome that is frequently the result of other dispute resolution methods such as litigation or arbitration. Information and documents shared confidentially with the Mediator may not be shared with the other party during the Mediation without express authorization. Furthermore, the Mediation decision is only made public if all sides consent.

The strategy can also save the parties money when compared to litigation or arbitration. The Mediator's fee, the cost of preparation work, and day-to-day overheads are all included in the costs. The Mediator's fees and expenses are usually divided between the parties. Each partner is solely liable for his or her own expenses and expenditures.

One of the key disadvantages of mediation is that it may cause a delay in the resolution of a dispute if it does not settle things or if one of the parties declines to participate.

Fakih (2012) also points out the process's disadvantages, such as the lack of required parts, the lack of neutral party authority, the lack of ADR case precedents to anticipate future probability results, the lack of final agreement enforcement, and the possible disparity for small party 'underdogs.' Both the pro and con arguments are valid. However, in terms of speed, affordability, and confidentiality, the advantages appear to exceed the drawbacks. There are several solutions available to address the restrictions.

The social acceptance of Mediation as a technique did not meet the expectations of theoretical dispensability. The most significant difficulties and resistance are not exclusively technical, but ideological, as it not believed that Mediation and the law could coexist side by side, in a way peaceful, as they have values that interact mutually, disrupting each other (Bowling, 2003)

4.3 Reasons to opt for Family Mediation Process instead of Litigation

Mediation is a type of conflict resolution as well as a type of conciliation. There is an image of an unbiased third party intervening in the negotiation process to assist the parties in resolving their problems on their own. In turn, the mediator facilitates communication between the two sides, maintains the relationship through time, and identifies their interests and difficulties in order to establish a suitable combination with their assistance. The following are the three essential components of the mediation process: the existence of conflicting parties the existence of apparent competing interests a fair third party who can aid in the quest for an agreement

The differences between mediation and litigation by trials are underscored further as the mediator strives to develop a solution that satisfies both parties through plenary sessions and liaison between private caucuses for each party, rather than depending on a third party decision maker as in litigation (Erickson, Bowen and Geoffrey, 2006).

The view that integrated all-party participation and self-decision making components are fundamental qualities and differentiating criteria of mediation that must be retained if it is not to

become like other more arbitrary processes is also included in the sentiment on decision making (Nolan-Haley, 2012).

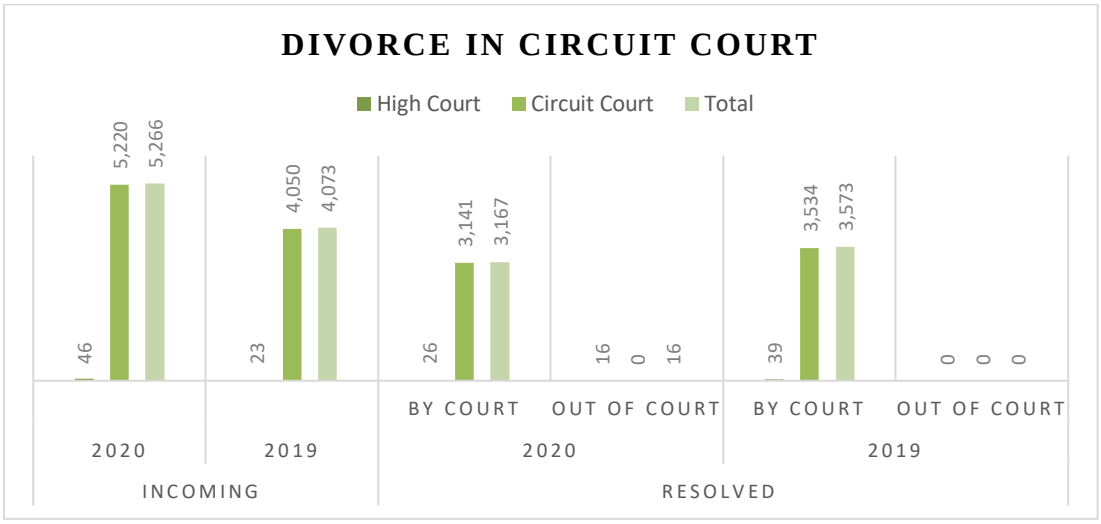
Among the primary qualities and guiding principles of mediation is the autonomy of will, which describes the parties' unfettered ability to stipulate and discipline what best serves their interests. Non-confrontation and non-competitiveness differ from lawsuits, and in this conflict resolution approach, instead of being competitive, both sides are partners. A neutral and impartial third party is present to assist the parties without exerting any influence, publicizing value judgments, or engaging in any type of persuasion or pressure. The goal is to offer a favorable environment for self-combination by allowing the application of commercial technology. Once an agreement is reached.

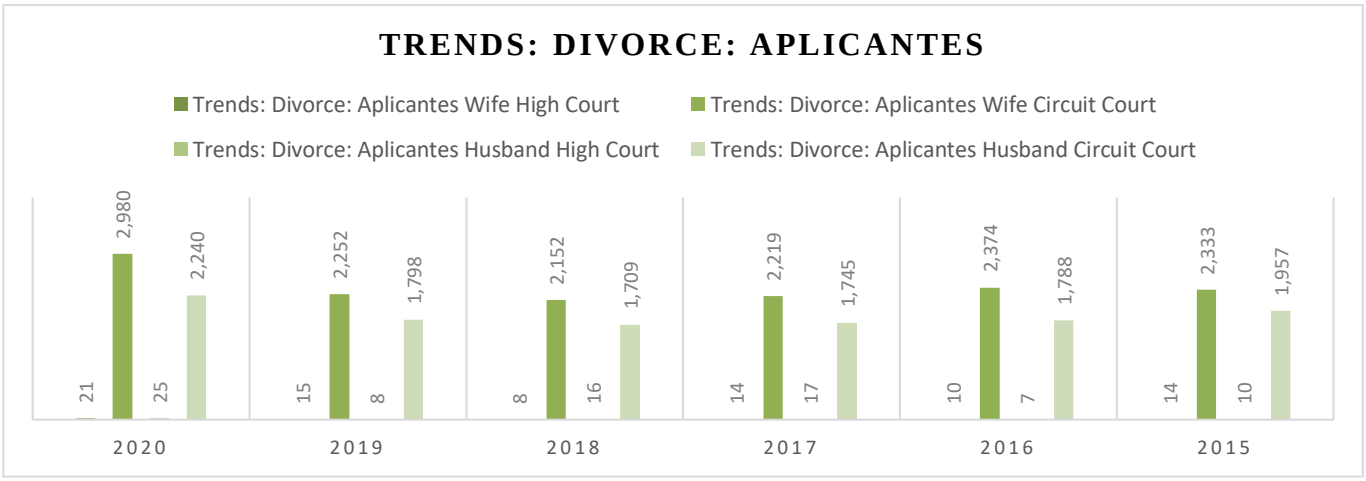
4.4 Annual Report of Divoce though The Court

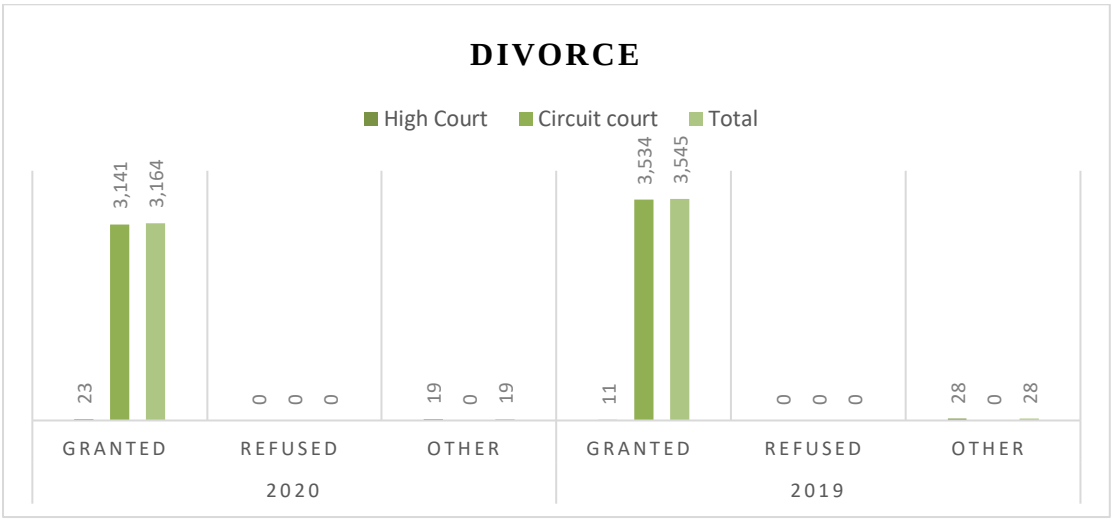
The role of family mediation in divorce is to promote the progress of the process by bringing the parties together and interceding in the conversation between them to reach an out-of-court settlement.

A divorce decree dissolves the marriage and allows each party to remarry. Even before the court can grant a divorce, the parties must have been married for four of the previous five years and lived apart; there must be no reasonable prospect of reconciliation; and appropriate provisions for the spouse and any dependent family members must have been established or have already been made.

In 2020, divorce applications grew by 29% to 5,266 from 4,073 in 2019 and 3,888 in 2018. There were 46 applications submitted in the High Court, up from 23 in 2020, and 5,220 in the Circuit Court, up from 4,050 in 2020 – the majority of which were filed by spouses in the High Court (84%) and wives in the Circuit Court (29%) respectively (75 percent). 3.164 divorce orders were issued, with 23 in the High Court and 3,141 in the Circuit Court.

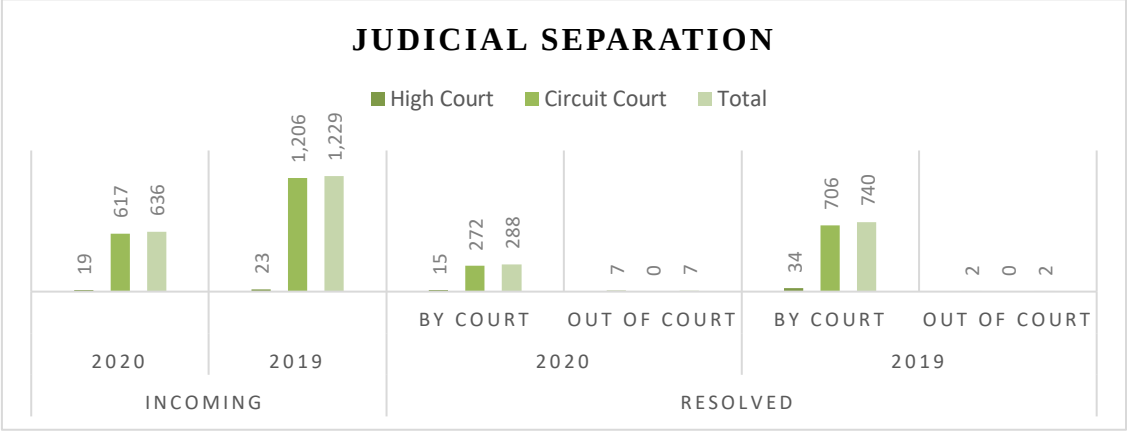

DIVORCE IN CIRCUIT COURT
High Court
Circuit Court
Total
46
5,220
5,266
23
4,050
4,073
26
3,141
3,167
16
0
16
39
3,534
3,573
0
0
0
BY COURT
OUT OF COURT
BY COURT
OUT OF COURT
2020
2019
2020
2019
INCOMING
RESOLVED

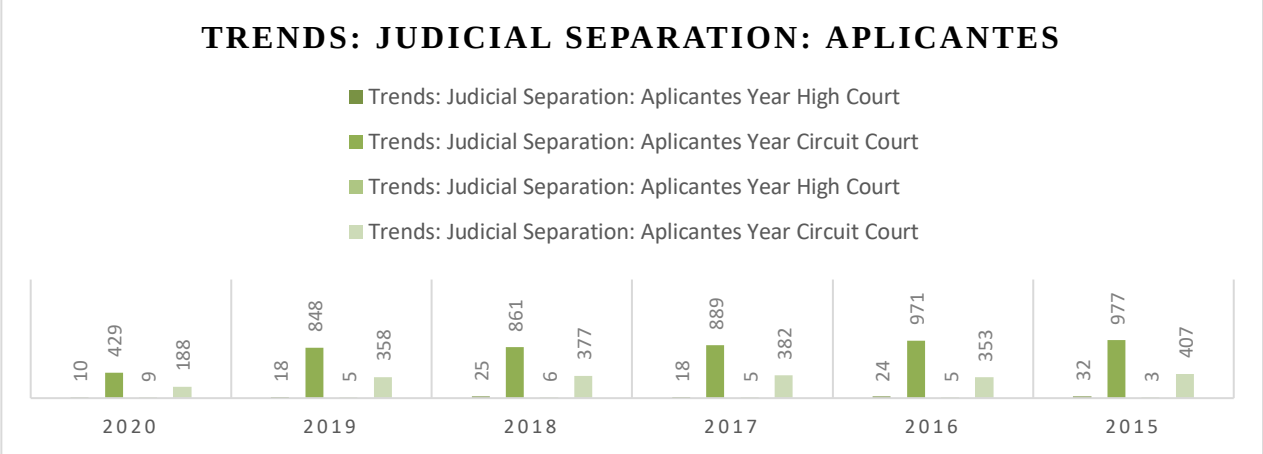

TRENDS: DIVORCE: APLICANTES
Trends: Divorce: Aplicantes Wife High Court
Trends: Divorce: Aplicantes Wife Circuit Court
Trends: Divorce: Aplicantes Husband High Court
Trends: Divorce: Aplicantes Husband Circuit Court
21
2,980
25
2,240
15
2,252
8
1,798
8
2,152
16
1,709
14
2,219
17
1,745
10
2,374
7
1,788
14
2,333
10
1,957
2020
2019
2018
2017
2016
2015

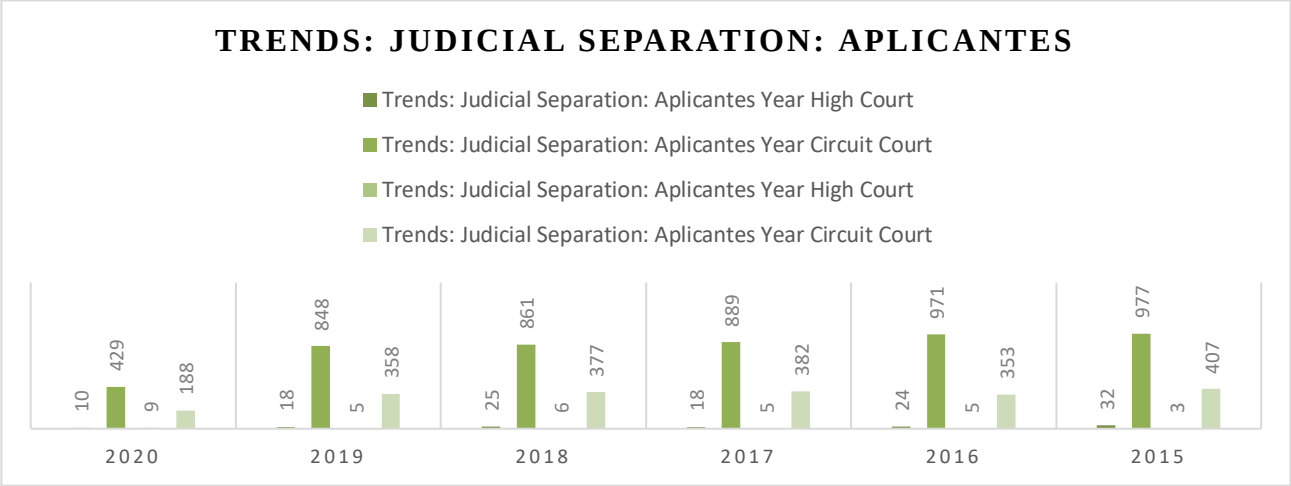

DIVORCE
High Court
Circuit court
Total
23
3,141
3,164
0
0
0
19
0
19
11
3,534
3,545
0
0
0
28
0
28
GRANTED
REFUSED
OTHER
GRANTED
REFUSED
OTHER
2020
2019

A judicial separation decree frees spouses from the obligation to cohabitants. The most common reason for granting a decree is that the court determines that the spouses did not have a standard marital connection for at least one year prior to the date of the ruling application.

In 2020, there were 636 applications for judicial separation, a 48% fall from the 1,229 in 2019. There were 19 in the High Court and 617 in the Circuit Court, representing a 49% decline from the 1,229 applications filed in 2019. The bulk of applications in both jurisdictions (53% t in the High Court and 70% in the Circuit Court) were filed by wives. Two hundred seventy-one orders were granting judicial separation, three in the High Court and 268 in the Circuit Court, with two applications denied. (Courts Service Annual Report 2020 Pag. 56-58 - https://www.courts.ie/annual-report)

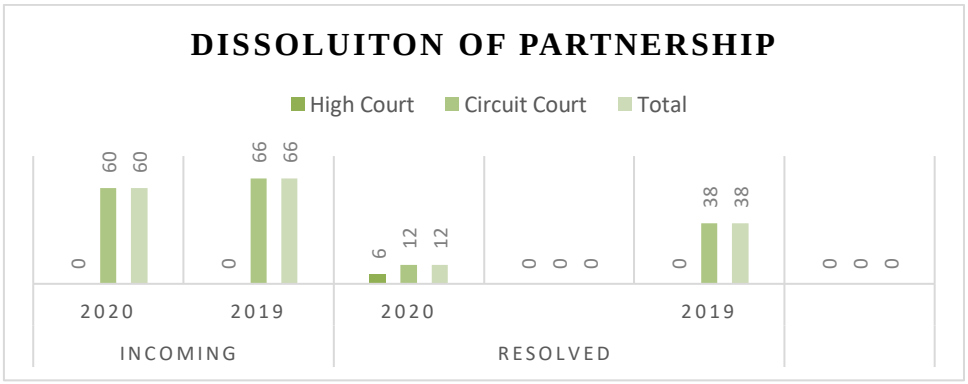


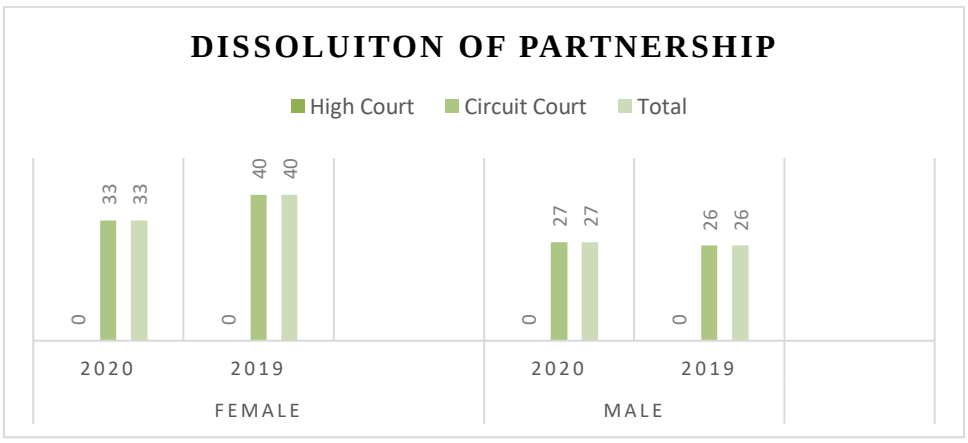


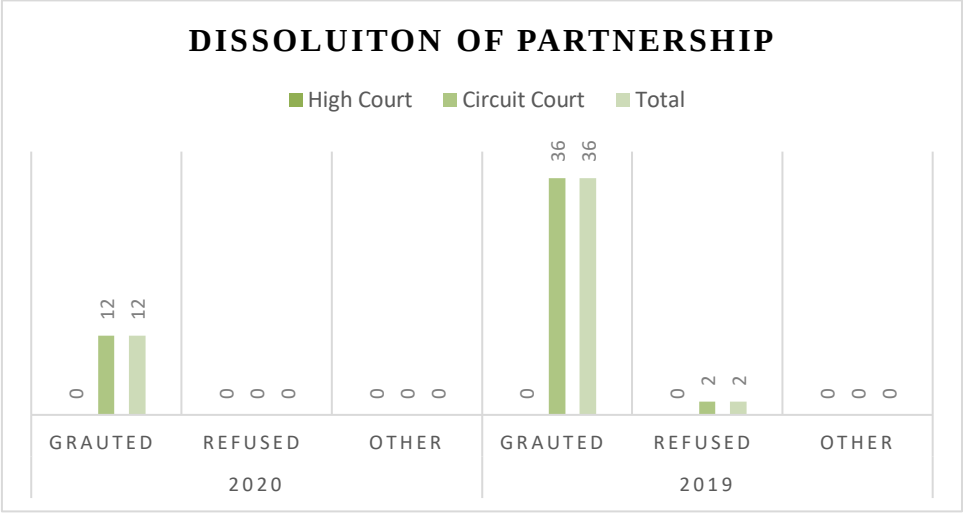


Courts can terminate civil unions in the same way that they can award divorce. A dissolution decree allows both parties to a civil partnership to marry.

In 2020, the Circuit Court received 60 applications to dissolve partnerships, a 9% reduction from the 66 applications received in 2019. Females submitted the bulk of applications (55 percent). There were 12 orders issued dissolving partnerships, with no applications being denied.







The granting of a divorce decree is dependant on three conditions, according to both the constitution and the law: a four-year separation time, proof that the marriage has no potential of reconciliation, and'sufficient provision' for the spouses and any dependent children. Ancillary relief orders are supposed to ensure proper provision, but the Family Law (Divorce) Act 1996 does not specify any overarching policy goal for proper provision, and the courts have not developed specific guiding principles despite ample opportunity (Crowley, 2011, p. 233)

The uncertainty of the proper provision requirement is exacerbated by the in camera rule, which requires all family law hearings to be conducted in private. Although the standard has recently been relaxed to allow limited reporting by authorized researchers and media, determining judge sentiments toward additional relief on divorce remains extremely difficult. Most divorces are granted by the Circuit Court, where it is not traditional to issue written judgements, leaving decisions of the High Court in so-called 'ample resources' instances as the only authoritative guidance accessible. Assessing rights and obligations when riches exceed requirements is a significantly different process than what is required in ordinary families with low means. In any case, the judiciary's decisions in these cases have substantially reflected the legislative emphasis on flexibility and discretion (Crowley, 2011, p. 233).

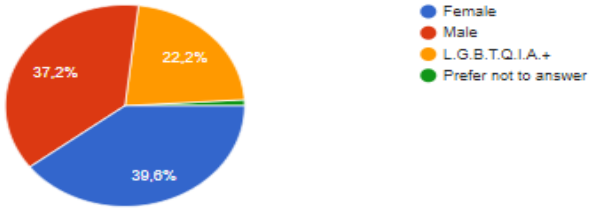
4.5 Respondents' Perceptions About Family Mediation

An online survey was done through Google Docs between 09/01/2021 and 10/01/2021, with 207 people, to study the opinion of respondents in the country of Ireland. This research intends to raise information regarding residents' understanding of the family mediation procedure.

According to the Google Weets study, with 207 participants, respondents are both female and male, and the majority of respondents are 39.2 percent female, with an age range of 35 to 44 years old, and 33.8 percent correspond to cohabitants/life partners, below are the questionnaires with the answers:

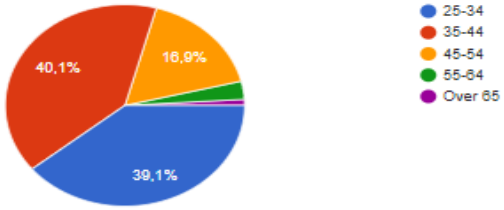
1. What is your gender?

207 respostas



2. Age category?

207 respostas

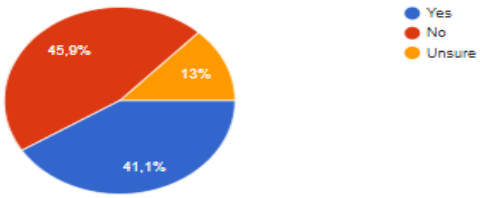


3. Relationship Status?

207 respostas

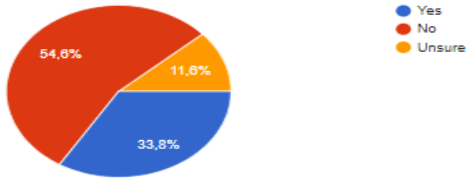
4. Have you heard about Mediation Process?

207 respostas



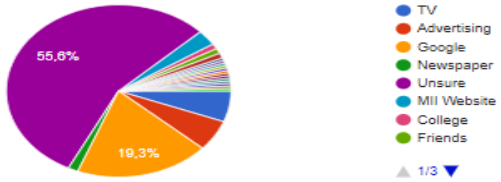
5. Have you heard about Family Mediation?

207 respostas



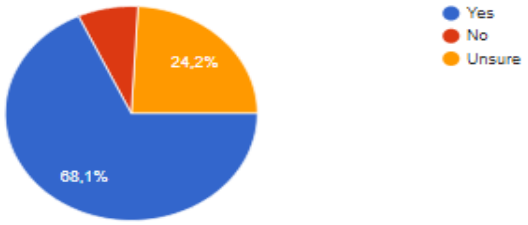
6. Where did you hear about Mediation?

207 respostas



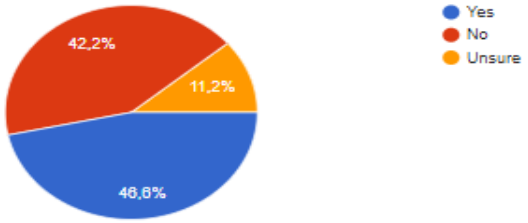
7. Do you BELIEVE the population should be more informed about the Mediation Process?

207 respostas



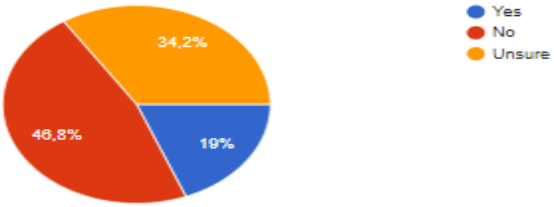
8. Is your relationship broken down or in process of breakdown?

206 respostas



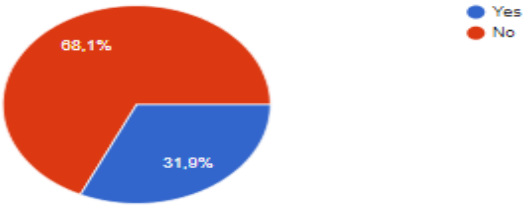
9. If your answer is "Yes" (the last question) would you agree to participate in a mediation process before or instead of a litigation process?

158 respostas



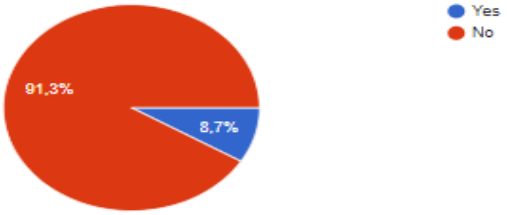
10. Have you been to a Lawyer?

207 respostas



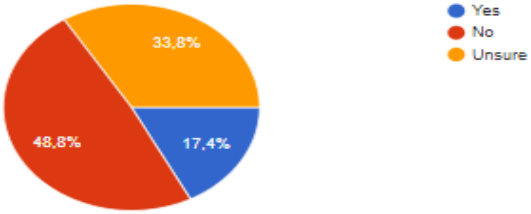
11. Has your Lawyer recommended Mediation

207 respostas



12. Are you aware OF the Benefits of Mediation?

207 respostas



13. If your last answer is "Yes" Could you please explain?

27 respostas

- Meditation is a process to clean the mind and connect to myself.
- Can help her the other person needs without putting yourself first
- Working in the best interest for both parts
- Mediation empowers people to decide what they want and preserve the relationship.
- Trying to get the best for both parts as someone who is outside
- I studied law!
- A mediator can see both views of the disagreement and help in the best solution
- Helping to find the best solution as someone who is qualified for that
- Confidentiality, voluntary and self determination

13. If your last answer is "Yes" Could you please explain?

27 respostas

- Faster then litigation
- Speed, control over the results and the process, privacy, empathy, etc.
- That provides a chance to disputants to reach resolution which will be accepted by both and will definitely help them for future relationship.
- If you participate in a mediation process, both interested parties have a chance of no harm.
- Through an independent third party who has expertise in Mediation you may discover solutions to the relationship breakdown that would not be obvious without mediation.
- You need some time off to clear your mind and think better
- The mediator can help the couple to find a settlement without the necessity to go to court
- It can allow the parties to resolve conflicts without the need to go into court.

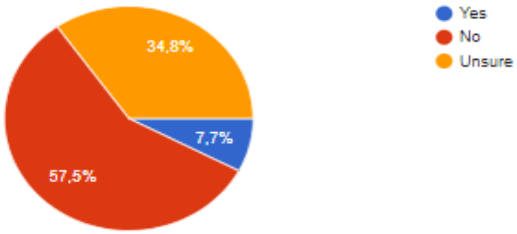
13. If your last answer is "Yes" Could you please explain?

27 respostas

- Getting the best in a conflict between parts
- O resultado costuma sair com maior rapidez. Custo baixo.
- N/A
- Is the fastest way to resolve a conflict, less stressful and low cost.
- Taking to problem solving in agreement between the parties
- Because in a Mediation i am not said what to do, like a child.
- Avoiding legal coasts with court
- Cheaper and faster
- Mediation provides a reflection time through a third party which generally the opposing party cannot see.

14. Are you aware OF the Limitations of Mediation ?

207 respostas



15. If your last answer is "Yes" Could you please explain?

11 respostas

- The limitation that I see is for the mediator's part. In not have the power over the final decision.
- Mediator cannot decide for the parties
- If the counterpart is not willing to cooperate it is a waste of time.
- It's not a binding agreement
- Although this is very handy process but resolution can not be guaranteed. Disputants may go to the court even after had mediation sessions.
- The couple need to be open to try the settlement, and sometimes this is not possible.
- N/A
- The mediator does not have decision power. The parties involved have to decide on the solution.
- Rarely ever there will be any win-win agreement. Someone will feel harmed.

15. If your last answer is "Yes" Could you please explain?

11 respostas

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- N/A
- The mediator does not have decision power. The parties involved have to decide on the solution.
- Rarely ever there will be any win-win agreement. Someone will feel harmed.
- It is a voluntary process
- Non binding

According to the survey, 45.9 percent of respondents had never heard of the family mediation procedure, and 54.6 percent had never heard of mediation. And 55.6 percent are unsure if they

had heard of mediation. 68.1 percent say the general public should be better informed about the Mediation Process.

While asked if the interviewees' relationships were broken or in the process of being split up, 46.6 percent replied yes. When asked if they would accept to participate in a mediation procedure before to or instead of a court process, 46.8 percent replied no. When asked if they are aware of the benefits of mediation, 48.8 percent replied no, while 57.7 percent stated they are not aware of the restrictions of mediation.

Many respondents (68.1 percent) indicated they did not consult a lawyer, and when they did consult a lawyer, he also did not recommend seeking mediation, therefore 91.3 percent responded.

As a result, it is observed that, due to the number of respondents, 207 persons, a minimal number dealt with the subject, that is, they displayed knowledge about the subject, the procedure, and other options to seek conflict resolution.

Conclusion

According to the findings of the study, family mediation appears to be a successful approach for dealing with conflict in adult relationship breakdowns for a variety of reasons. It allows parties to discuss emotional and legal difficulties while working toward a solution that builds rather than undermines pre-existing bonds. However, in the case of an adult relationship breakdown, mediation should be used with caution because it can deprive the adult of procedural and substantive due process rights that a court case would provide.

Perceptions of distinctions in mediation practice, in my opinion, have a lot more to do with personal style, self-confidence, personal choice, and context information. Mediation is a fluid

and adaptable procedure. Many practitioners would see this as a strength, and one that is necessary for the responsive approach needed in mediation. The versatility of mediation may be seen in its roots, when it was used to improve social harmony and encourage people to confront conflict effectively early onwards.

It seeks family mediation to preserve relationships, promote growth and freedom to solve future problems, help individuals who participate in the resolution, and promote a culture of peace and harmony among all parties. The distinguishing features of family mediation are that it is a participatory and adaptive procedure designed to help people regain control over conflict. It is fundamentally developed in rhetoric, in dialogue as an instrument for resolving conflicts and in the interaction between the third party in its management.

Therefore, mediation focuses on conflict-based solutions, with the aim of preserving a harmonious environment in which families can enjoy sufficient peace and maturity to deal with their daily problems. If children cannot enjoy the constant, friendly presence of their parents, they must not live in battle. These marks will bring you deep marks of offense or even aggression, and these marks will run through your entire existence. If you can't live in love like before, you should at least try to live with each other.

Family mediation Services in Ireland has come a long way in the last three decades. While it is clear that mediation is not a substitute for counseling, therapy, or the legal system, it is now largely accepted as a legitimate means of dispute resolution with various advantages.

A survey was carried out with 207 people residing in Ireland and around 46.6% reported that their relationship is broken or in the process of breaking up, 46.8% would not agree to participate in a mediation process before or in place of a process judicial. And, unfortunately, about 48.8% of people are not aware of the benefits of mediation, and 57.7% said they are not aware of the limitations of mediation. Therefore, it is observed that society is not aware of self-composition methods of Mediation Process or Fmaily Mediation. However, according to the legal system, it

is the State's duty to disclose, encourage and inform citizens about alternative means of conflict resolution such as conciliation and mediation.

Reflections

This research reflected deep feelings and doubts in me. I believe that society still does not have deep knowledge about the mediation process, and it is perceived that it can resolve family conflicts amicably, and I believe that measurement is the best way to reach a consensus when there are family conflicts.

From the research study, the author can conclude that the lack of knowledge of the Benefits and Limitations concerning Mediation were the main concerns preventing the wide use of Mediation in conflict resolution as an ADR process in adult relationships.

Mediation does not have the duty to dismiss the Court, but it emerged to change the litigation culture, for better or worse.

In practice, Mediation takes place by a neutral and capable third person, which constitutes the opportunity to build other alternative means to face or prevent family conflicts since it is not the mediator who decides the conflict, but the essence.

Unfortunately, the provided data did not allow me to draw any more conclusions about the question: Would the couple prefer to participate in Mediation rather than litigate?

First, since I do not have a lot of time to do my investigation, and second, because individuals involved in conflict do not want to talk about breaking their relationships.

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