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## ADR-based Workplace Conflict Management Systems: A Case of American Exceptionalism

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# ADR-based Workplace Conflict Management Systems: A Case of American Exceptionalism

## Abstract

[Excerpt] The diffusion of ADR-based conflict management systems is a development increasingly highlighted in the literature. Organizations are seen as putting in place multiple procedures and practices so that different varieties of workplace conflict can be effectively addressed. Just why organizations are electing to introduce these integrated bundles of innovative conflict management practices is a matter of debate, but many view the development as transforming the manner in which workplace problems are managed in modern organizations, with some even pronouncing that it amounts to the rewriting of the social contract at work (Lipsky and Seeber 2006). This paper argues that to the extent to which conflict management systems are being diffused, it is occurring mainly in the USA because the institutional context for the management of the employment relationship creates considerable incentives for the adoption of ADR-inspired conflict management innovations. Other Anglo-American countries, where it might be thought reasonable to expect a similar pattern of ADR innovation at the workplace to emerge, are not experiencing any discernible shift towards conflict management systems inside organizations. It is suggested that in the absence of institutional incentives to adopt workplace management systems, organizations are unlikely to opt for radical conflict management innovations. At the same time, drawing on research in the Irish context, it is argued that tried-and-tested conflict management practices do change over time, with an incremental and evolutionary approach adopted by some organizations to upgrade practices considered the most interesting development.

The paper is organized as follows. The first section assesses why the emergence of integrated conflict management systems in organizations is considered to be a significant new development in the USA. The next section evaluates evidence and suggests that a similar pattern of workplace conflict management innovation is not occurring in other Anglo-American countries. After this evaluation, it is suggested that the institutional context in the USA creates uniquely strong incentives for organizations to adopt integrated bundles of ADR practices at the workplace - causing the emergence of conflict management systems to be a case of 'American exceptionalism'. The following section argues that in the absence of strong institutional incentives to do so, organizations are unlikely to move radically away from established conflict management systems. The penultimate section explains that even in the presence of organizational inertia, conflict management practices seldom stay the same and uses research in the Irish context to suggest that organizations sometimes use an evolutionary approach to upgrade conflict management practices in an incremental yet continuous manner. The final section presents a number of case studies of this evolutionary approach to conflict management innovation. The conclusions bring together the arguments of the paper.

## Keywords

alternative dispute resolution, ADR, conflict management, United States

## Disciplines

Dispute Resolution and Arbitration | Human Resources Management | International and Comparative Labor Relations

## Comments

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**ADR-based Workplace Conflict Management Systems:  
A Case of American Exceptionalism**

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## **Introduction**

The diffusion of ADR-based conflict management systems is a development increasingly highlighted in the literature. Organizations are seen as putting in place multiple procedures and practices so that different varieties of workplace conflict can be effectively addressed. Just why organizations are electing to introduce these integrated bundles of innovative conflict management practices is a matter of debate, but many view the development as transforming the manner in which workplace problems are managed in modern organizations, with some even pronouncing that it amounts to the rewriting of the social contract at work (Lipsky and Seeber 2006). This paper argues that to the extent to which conflict management systems are being diffused, it is occurring mainly in the USA because the institutional context for the management of the employment relationship creates considerable incentives for the adoption of ADR-inspired conflict management innovations. Other Anglo-American countries, where it might be thought reasonable to expect a similar pattern of ADR innovation at the workplace to emerge, are not experiencing any discernible shift towards conflict management systems inside organizations. It is suggested that in the absence of institutional incentives to adopt workplace management systems, organizations are unlikely to opt for radical conflict management innovations. At the same time, drawing on research in the Irish context, it is argued that tried-and-tested conflict management practices do change over time, with an incremental and evolutionary approach adopted by some organizations to upgrade practices considered the most interesting development.

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significant new development in the USA. The next section evaluates evidence and suggests that a similar pattern of workplace conflict management innovation is not occurring in other Anglo-American countries. After this evaluation, it is suggested that the institutional context in the USA creates uniquely strong incentives for organizations to adopt integrated bundles of ADR practices at the workplace - causing the emergence of conflict management systems to be a case of 'American exceptionalism'. The following section argues that in the absence of strong institutional incentives to do so, organizations are unlikely to move radically away from established conflict management systems. The penultimate section explains that even in the presence of organizational inertia, conflict management practices seldom stay the same and uses research in the Irish context to suggest that organizations sometimes use an evolutionary approach to upgrade conflict management practices in an incremental yet continuous manner. The final section presents a number of case studies of this evolutionary approach to conflict management innovation. The conclusions bring together the arguments of the paper.

### **The Emergence of Workplace Conflict Management Systems in the USA**

An influential view in the recent literature on workplace conflict management is that organizations should introduce, or actually *are* introducing, integrated bundles of innovative, usually ADR-inspired, conflict management practices, which are frequently termed conflict management systems. Just why organizations should do so and how they should do it is a matter of some debate. One strand of the literature, which is normative in tone and prescriptive in substance, exhorts organizations to introduce workplace conflict systems, normally in the form of adopting various complementary ADR practices, because these are considered the most advanced and

effective way of resolving workplace problems (see Costantino and Merchant 1996). For the most part, organizations are seen as being able to diffuse innovative conflict management systems by rational design, unencumbered by internal constraints or barriers. On these accounts, managers are able to immediately recognize the best practice benefits of introducing conflict management innovations in an integrated fashion.

The adoption of new complementary ADR practices is usually seen as occurring through a series of sequential steps. First of all, the management team identifies, scrutinizes and puts into consistent order those objectives and other values that it believes should govern the design of a workplace conflict management system. Then an assessment is made of all possible means of achieving the identified objectives and values. The next step is to examine all possible consequences from employing each of the possible means. Once these tasks are completed a combination of policies and practices is selected that will achieve the designated objectives and values. The envisioned outcome is an optimal mix of conflict management practices that is tailored to the specific needs of an organization. This is the stock-in-trade approach of the growing professional ADR community eager to sell its wares (Society of Professions in Conflict Resolution 2001). It is an approach that treats organizations as 'clean slates', able to move from one set of HRM practices to another without incurring transition costs.

A second strand of the literature argues that organizations should develop conflict management systems in order to ensure that organizational justice prevails internally. If organizations do not address workplace conflict effectively then its members are

likely to feel that they are being treated unfairly and thus become disaffected from the mission and purpose of the organization. This literature views workplace conflict in broad terms as disagreements through which the parties involved perceive a threat to their needs, interests or concerns. As a result, the effective management of workplace conflict requires the presence of a comprehensive repertoire of practices. The canonical publication of this approach is the classic study by Ury, Bret and Goldberg (1988). These authors proposed that the best means of managing and resolving conflict was through fostering multiple conflict management practices, ranging from 'interest-based' practices through 'rights-based' practices to 'power-based practices' that when combined would produce integrated conflict management systems (Ury et al. 1993: ch. 1). Ury et al. (1993) also argued that interest-based practices, especially mediation, ought to be prioritized in systems design, with rights-based and power-based practices as 'backups'. Conflict management systems should have 'multiple points of entry' (supervisors, HR managers, shop stewards, organizational ombudsmen etc.). There should be no prescribed linear sequence in which different practices could be availed of by people with a grievance, and there should be scope for those pursuing a grievance to 'loop back' from power or rights options to interest options (Ury et al. 1993: 52-6). For Ury et al. (1993: 61-62) systems should also be designed by engaging stakeholders in the process.

Subsequent research has contributed to these strands of the literature. Multiple complementary options were advocated as more effective for addressing a range of different types of conflict. These also provided for different preferences on the part of people with grievances with respect to how best to resolve conflict (Bendersky 2003; Rowe 1997; Rowe and Bendersky 2003). The principle of non-linear steps or



sequences in systems was extended by allowing people to ‘loop forward’ across different practices and levels of the conflict management system; ‘parallel options’ were also advocated, allowing the same grievance or dispute to be addressed simultaneously through different types of practices (Rowe 1997; Rowe and Bendersky 2003; see also Bendersky 2003; Conbere 2001 and Lynch 2001; Slaikeu and Hasson 1998). Other contributors extended the paradigm by including ‘preventive ADR options’, such as consensus building, partnership and training in joint problem solving (Costantino and Sickles-Merchant 1996: 38-9). The importance of supportive HR practices that might incentivize parties to engage with the conflict management system was also advocated (Costantino and Sickles-Merchant 1996: 50).

A third strand of the literature, which has fast become the most influential, argues that an important new organizational development in the USA is the emergence of integrated systems of workplace conflict management, particularly within the largest and most advanced firms in the USA. This view was first set out systematically in Lipsky et al.’s canonical text, *Emerging Systems for Conflict Management in the Workplace* (2003: ch. 5). The book was seminal not only because it provided the clearest and most comprehensive statement of the concept of conflict management systems, but also because of the pioneering manner in which it linked conflict management systems with wider features of organizational strategy. Conflict management systems were seen to reflect a ‘prevent strategy’ towards organizational conflict that treated conflict management as a ‘strategic choice’ rather than a ‘reactive’ activity (Lipsky et al. 2003: ch. 4). Prevent strategies arose in sets of environmental conditions that included growing global competition, increasing government regulation of workplaces and, sometimes, declining unionization (Lipsky

et al. 2003: 147). But for these external pressures to lead to a strategic approach to conflict management a series of internal organizational conditions were also necessary, in particular a supportive organizational culture, strong commitment from top management and the presence of champions of innovative ADR (Lipsky et al. 2003: 146-50).

The growing prevalence of conflict management systems was seen as a feature of major US corporations, whose leaders had concluded that they could no longer afford reactive or 'passive approaches'. The diffusion of conflict management systems was seen as evidence of workplace problems being treated with the same proactive deliberation evident in the management of marketing, sales, finance and other corporate functions (Lipsky et al. 2003: 151). Careful empirical research by David Lipsky and his colleagues has indicated that the initial premises of this model were well founded and that growing numbers of US corporations were adopting a strategic posture towards workplace conflict.

A series of papers based on comparisons of the results of surveys of ADR in Fortune 1,000 corporations in 1997 and 2011 revealed that the incidence of conflict management systems had increased substantially. (Lipsky and Avgar 2008; Lipsky et al. 2012; Lipsky et al. 2014; Lipsky et al. 2016). An estimated 17 per cent of major US corporations were found to have adopted conflict management systems in 1997. The 2011 survey, using a more refined approach to estimating the incidence of conflict management systems (the existence of an office for dispute resolution or an organizational ombudsman), concluded that about a third of corporations now possessed a conflict management system (Lipsky et al. 2012: 22-5). The increasing

pervasiveness of conflict management systems reflected a ‘historic transformation’ involving a shift by many corporations away from adopting ADR practices on an ad hoc basis towards their adoption as part of a ‘proactive strategy designed to help the organization’s larger goals’ (Lipsky et al. 2016: 292-2). In this sense, conflict management systems arose because top-level managers and directors had decided that these could be a source of competitive advantage and a ‘unique value proposition’, providing a means to ‘leverage conflict management as a vehicle ... to advance ... broader organizational goals and objectives’ (Lipsky et al. 2016: 310 and 297-9). The growing adoption of conflict management systems reflected the crucial role of strategic choice in mediating external and internal influences on the adoption of ADR (Lipsky et al. 2016: 299-300).

Lipsky and his colleagues (2016) noted that the stream of research on the association between organizations’ conflict management strategies and the number and types of conflict management practices adopted was still in its infancy. They also sought to examine how the varying strategic approaches of (strategically-inclined) firms towards the management of conflict lead them to adopt different sets of practices. Several portrayals of strategic approaches have been presented in the body of research. In the most empirically grounded analysis, which was based on the 2011 survey, firms that viewed conflict management as a means of enhancing managerial problem-solving capacity were found to have adopted the most extensive and sophisticated portfolio of practices and were also more likely to have adopted interest-based ADR practices. Firms that viewed conflict management mainly as a means of enhancing their position in employment litigation were also likely to have adopted a broad ADR portfolio, including rights-based practices, but were not likely to have

adopted conflict management systems. Firms characterized by a strategic orientation that emphasized the efficiency benefits of managing conflict effectively were again more likely to have adopted conflict management systems (Lipsky et al. 2012; 2014; 2016). Organizations strongly committed to ‘corporate social responsibility’ were again more likely to have adopted conflict management systems – reflecting their corporate philosophy of addressing multiple stakeholder needs and interests (Lipsky et al. 2012).

Although seminal, this body of US literature has little to say about whether firms’ strategic postures extend to ADR innovations for managing collective conflict with unions. Conflict management systems, even in unionized firms, seem to be confined to the resolution of individual employment grievances and possibly of group conflicts outside the remit of collective bargaining and collective agreements (Robinson et al. 2005). This may well reflect their genesis and development in circumstances where many firms are either non-union, or operated in an environment where unionization presents little threat (Lipsky et al. 2016). Where CMSs exist in unionized firms, unions appear to have accommodated with varying levels of enthusiasm to the practices they involve for resolving individual grievances (Avgar 2016). Unions may also sometimes insulate CMSs from collective bargaining by insisting on certain issues remaining within the remit of collective bargaining and associated procedures for dispute resolution (Avgar 2016; Dickley 2016; Lipsky et al 2003: 303-4; Robinson et al. 2005). Interest-based forms of collective ADR, such as ‘interest-based bargaining’, ‘assisted bargaining’ or ‘facilitation’, do not appear to be at all standard design features of conflict management systems in unionized firms in the US. The US literature on collective ADR innovations appears, for the most part, to run along

parallel tracks to the literature on conflict management systems (see, for example, Cutcher-Gershenfeld 2003; 2014; Kochan and Eaton 2014; Kochan et al. 2009). Moreover, there is little or no emphasis on strategic conflict management or strategic choice in most of this parallel literature.

A major question that arises from the US body of research on the adoption of conflict management concerns whether the underlying approach identified is unique to the United States, or whether it has influenced to any significant extent organizational approaches to workplace problems in other countries, particularly those that share an Anglo-American heritage of industrial relations and conflict resolution. This question is addressed in the next section of the paper.

### **Conflict Management Systems as American Exceptionalism?**

Survey data on ADR in firms with 50 or more employees in the private and state-owned commercial sector in Ireland in 2008 showed that with the exception of formal open-door policies, few firms had adopted ADR practices for managing individual employment grievances and also revealed that the pattern of adoption tended to be largely random and unsystematic (Teague et al. 2011). The pattern in larger firms was little different to firms in general (Roche et al. 2012; Teague et al. 2011). While US-owned multinational corporations were more likely to have adopted some ADR practices, such as ‘hot-line’ or ‘speak up’ services and organizational ombudsmen, they were less likely to have adopted other ADR practices, like using ‘employee advocates’ or bringing in external experts to resolve grievances (Teague et al. 2011: 597). A separate study of conflict management in (mainly US) non-union

multinationals in Ireland also revealed little evidence that these firms adopted conflict management systems in their Irish subsidiaries (Doherty and Teague 2012).

The 2008 Irish ADR survey revealed that ADR practices for resolving collective conflict were more pronounced in Ireland than individual ADR practices, but most nevertheless remained features of minorities of firms and even of larger firms (Roche and Teague 2011: 445; Teague et al 2011: 595). Latent class analysis revealed that an estimated 25 per cent of mainly non-union firms used sets of collective ADR practices that included 'brainstorming', problem-solving and associated techniques to solve problems and resolve disputes, as well interest-based bargaining and intensive formal communications regarding impending change. A further 5 per cent of mainly unionized firms combined these practices with conventional disputes procedures and used also external experts to promote early dispute resolution (Roche and Teague 2011: 447-52). There was little evidence that these clusters arose from deliberate attempts to develop conflict management systems (albeit confined to group conflict). Subsequent qualitative research has shown that strategically designed or redesigned conflict management systems on the US model remain elusive in the Irish case (Teague et al. 2015).<sup>1</sup>

While comparable data are not available for the United Kingdom, other research points to a similar pattern to that in the Irish data. The growing use of mediation to resolve individual grievances by organizations in the UK has attracted most attention and has generated a significant corpus of research. This reveals that firms and public

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<sup>1</sup> The adoption of what the research termed 'hybrid ADR systems' in a small minority of mainly Irish-owned unionized firms was associated with a more proactive approach to conflict management and was attributed to increased competitive pressures and the effects of deregulation (Roche and Teague 2011: 455).

service organizations continue to resort to mediation on a largely ad hoc basis. The all-encompassing proactive decision-making posited by the strategic paradigm is seldom in evidence. Nor are the conflict management systems associated with the strategic paradigm (Latreille 2013; Saundry and Wibberley 2012; 2014; Wood et al. 2014). In some instances mediation initiatives appear to have evolved into ‘more systemic approaches’ to conflict resolution (Latreille 2013: 63-4). Isolated cases of conflict management systems have been reported in the UK, such as in the case of a large National Health Service unit, providing hospital, community health and adult social care, where the initiative was undertaken incrementally but ultimately as a means of promoting ‘cultural transformation’ in the context of growing work pressures faced by staff (Latreille and Saundry 2016).

A survey of private sector firms with head offices in Wales shows the wide prevalence of mediation for resolving individual and collective conflict and conflict between employees, with about three out of ten employers using these various forms of mediation (Hann et al. 2016: 12). Other ADR practices show a broadly similar prevalence to Ireland, with a higher prevalence of review panels and employee advocates for addressing individual conflict and of formal communication about impending change for handling group conflict (compare Hann et al. 2016: 14-17 with Teague et al. 2011: 592-595). The Welsh study includes ‘conflict coaching’ and ‘personal development planning’ among the ADR practices assessed, and these are shown to have a high prevalence, being present respectively in 55 per cent and 35 per cent of firms (Hann et al. 2016: 16). Hann et al. (2016: 15) interpret their findings as showing an appreciably higher prevalence of ADR in Wales than is commonly supposed for the UK or Ireland, and, somewhat tentatively, as pointing towards the

‘potential development of integrated [conflict] management systems’. However the average number of ADR practices prevalent out of a list of 14 that was assessed was between 3 and 4 – hardly indicative of the prevalence of conflict management systems (see Hann et al. 2016: 9 and 20).

No evidence was presented on latent clustering among the practices, such as might allow for a more precise estimate of the prevalence or features of either developed or embryonic conflict management systems. In the light of the findings on the low average incidence of multiple ADR practices, the authors question the *depth* with which ADR is used in Welsh firms (Hann et al. 2016: 20). Firm size has little effect on the prevalence of ADR practices, although most firms in the survey were small. Overall, therefore, the Welsh research, like the Irish, seems best interpreted as revealing that the kinds of conflict management systems and the strategic or proactive approaches with which they are associated have yet to become as widely prevalent or embedded across the Atlantic as appears to be the case in the US.

Much the same seems to be case across the Pacific in Australia and New Zealand, although again the absence of comprehensive or cross-nationally comparable data precludes any definitive assessment. Reviews of ADR in both countries tend to be agency-centric rather than firm-centric, reflecting a pattern in which ADR innovations have tended to be top-down in genesis, or fostered by state conflict resolution agencies, rather than bottom-up, or emerging organically within firms. The most detailed reviews of developments in Australia and New Zealand point towards, at best, limited engagement by firms with ADR. Van Gramberg et al. (2016; 2014) show that a series of political and legislative attempts to promote private mediation in



collective disputes made little headway in Australia. Reviews of developments in conflict involving individual employees have focused on the sharp rise in grievances and in ‘self-represented litigants’ at the Fair Work Commission (FWC). The FWC has responded by expanding mediation and conciliation and by developing various communication and preventive initiatives (Van Gramberg et al. 2016). Beyond these developments, Australian commentaries highlight few innovations within the grievances or dispute resolution procedures of firms. Much the same can be said in the case of New Zealand. Here collective ADR remains unusual (Rasmussen and Greenwood 2014). As in Australia, state conflict resolution agencies have grappled with how best to address a sharp rise in the incidence of individual employment grievances. A Mediation Service has been established to encourage grievance resolution prior to adjudication or arbitration by the Employment Relations Authority (Rasmussen and Greenwood 2014: 465-6). Other than in the case of bullying and harassment, where the search for ADR practices within firms has been commented upon (Rasmussen and Greenwood 2014: 467), innovation appears to have been weighted towards services provided by state conflict resolution agencies.

### **Institutional Context Matters**

Thus, the significant moves towards the diffusion of integrated conflict management systems in the USA are not being replicated elsewhere. Just why the American CMS movement has not transferred abroad is probably best explained by the exceptionalism of the USA institutional context for addressing workplace disputes. In contrast to pretty much the rest of the Anglo-American world, it has never been considered appropriate in the USA to establish a body like an Employment Tribunal or Labour Court specifically to address legally-based employment disputes. In the

absence of any specialized semi-judicial system, legally-based employment disputes are addressed in the main by the normal civil court system. Superficially, this institutional peculiarity appears relatively innocuous, but in reality it has created big institutional incentives for organizations in the USA to develop ADR-based conflict management systems

Using the court system to vindicate employment rights in the USA is a very legalistic, costly and protracted affair: on average it takes a minimum of 2 years before a case gets to trial (Colvin 2012). Yet despite being burdensome, a massive increase occurred in the number of employment-related legal cases going before the courts during the 1990s. The significant expansion in employment rights legislation in the previous two decades, most notably in the areas of discrimination and equality, was partly responsible for this increase. A further factor was probably the lure of big financial awards. Vindicating employment rights in the Courts had become high-stakes business. Colvin (2012) estimates that the median award in successful cases in state-level courts was \$176,000 while the median figure for successful cases in Federal Courts was \$394,000. Thus, potentially handsome rewards awaited those claimants prepared to endure the arduous legal journey to vindicate employment rights. In contrast, organizations faced the prospects of having to make big pay-outs should they lose a legally-based employment dispute.

Faced with an enlarged body of legally-based employment rights triggering more employment-related litigation cases against organizations with potentially costly implications, employers had the incentive to somehow escape this development. A circumvention strategy was not long in arriving. Large-scale organizations started

writing employment contracts which required prospective employees to sign, as a condition of recruitment, a commitment to arbitrate alleged breaches of statutory rights and forgo their right to pursue their case in the courts (Stone 2000). Considerable uncertainty existed about the legality of obliging potential employees to waive their right to use the courts to vindicate alleged breaches of employment law. However, this uncertainty was cleared up in 1991 when the USA Supreme Court ruled in the *Gilmer case* that it was legally permissible for organizations to ask employees to use arbitration to resolve legally-based employment disputes.

This decision gave employers the green light to develop employment contracts that contained binding arbitration clauses, thereby making it difficult for employees to use the courts to vindicate statutory employment rights (Lipsky et al. 2003). In the wake of the *Gilmer* decision, the number of employment contracts stipulating that employment disputes will be settled by arbitration increased significantly. But to be a credible alternative to litigation, organizations had to show that arrangements put in place to address workplace conflict were meaningful, comprehensive and easily accessed by employees (Lipsky and Avar 2008). In effect, the *Gilmer case* created institutional incentives for organizations to develop conflict management systems. Of course, it would be misleading to attribute the rise of ADR-based conflict management systems solely to the *Gilmer case*. Research suggests that organizations were prompted by other influences to develop conflict management systems. These range across a wide range of factors, including the need to upgrade conventional dispute resolution practices to have better internal organizational capabilities to deal with mounting commercial pressures for higher organizational and individual performance and the demands of a more educated and assertive employees.

But crucially neither Ireland nor any other Anglo-American countries faced strong institutional incentives to adopt ADR-based conflict management systems. Attempts have been made to introduce thorough-going, organizational-level systems for the management of workplace conflict in some Anglo-American countries without success. In New Zealand, a root and branch transformation of existing institutional support systems for collective industrial relations was attempted through the Employment Contracts Act 1991 (Grills 1994). This piece of legislation was a radical plan to weaken collective industrial relations and create a new institutional structure for individual employment disputes, with a strong emphasis on non-judicial resolution methods such as mediation (Walker and Hamilton 2009). Unsurprisingly, trade unions strongly opposed this development, claiming it represented a ‘privatization’ of the dispute resolution system. As a result, when a Labour Government regained power it passed the Employment Relations Act 2000 to shift the balance towards collective bargaining and away from individual employment rights (Waldegrave et al. 2003).

In Australia, several pieces of legislation were introduced to weaken a lynchpin of the country’s collective industrial relations system, the centralized conciliation and arbitration system that strongly regulated aspects of organizational wage setting. In addition, an Alternative Dispute Resolution Assistance Scheme (ADRAS) was introduced to strengthen the role of private mediation in the management of workplace conflict by providing employees with financial subsidies to use private mediators instead of statutory bodies to address their employment grievance/disputes. These initiatives were interpreted as public policy being used to promote a private justice regime to resolve legally-based workplace conflict (Van Gramberg 2006). The

new regime was stoutly opposed by trade unions and some politicians, which explains why one of the first moves of a new Labour Government elected in 2008 was to introduce the Fair Work Act 2009 aimed at re-establishing public support mechanisms for collective bargaining.

Thus attempts at moving Australia and New Zealand down a pathway similar to that being travelled in the USA were thwarted. Continued widespread electoral support for social democratic parties alongside trade unions remaining influential in both countries ensured this would be the case. Other countries Anglo-American countries have not experienced any concerted efforts to privatize or recast the resolution of workplace conflict management along lines emerging in the USA. In the UK, the public policy debate on workplace conflict has very much focused on the efficacy of Employment Tribunals in dealing (mostly) with individual employment disputes. Various government-sponsored reports have portrayed employment tribunals as being overly formalistic, legalistic and cumbersome and as a result almost not fit-for-purpose (see for example Gibbons 2007). The main state dispute resolution body, ACAS, has responded to this development promoting conciliation and mediation as a method for resolving workplace disputes. But there is no evidence that organizations are moving in any decisive way to ADR-inspired workplace conflict management innovations (Wood et al 2014). In Ireland, the main state dispute resolution agencies have adopted new initiatives on mediation and facilitation, which can be described as ADR-inspired innovations. But these initiatives were only grafted onto the established approaches to addressing workplace disputes: certainly there has been on proactive engagement with promoting ADR innovations at the workplace (Teague et al 2015). In Canada, various public employment dispute resolution agencies at federal and

provincial level have sought to reorient what they do by increasing the number of informal, non-judicial dispute resolution services they deliver. Most of these concern the development of some type of ADR initiative to encourage the settlement of (mostly) individual-based workplace disputes informally. But as in the Irish case, these initiatives are aimed at making modest adjustments to tried-and-tested conflict management policies. An interesting initiative was introduced by the Public Service Relations Board in the early 2000s to diffuse a set of interrelated ADR procedures across the public sector, but after an initial flurry of activity this initiative petered out (Thompson and Slinn 2013).

Thus, although all Anglo-American countries have experienced a weakening of collective industrial relations, the established institutional frameworks for addressing workplace disputes and grievances have not been recast in any fundamental way. None of the institutional incentives that prevail in the USA encouraging the diffusion of ADR-based conflict management systems have emerged in any coherent form in other parts of the Anglo-American world. As a result, the peculiar institutional context in the USA suggests that the proliferation of ADR-based conflict management systems in the country should be considered an example of American exceptionalism.

### **Organizational Inertia and the Adoption of ADR Innovations**

It would be misleading to conclude from this assessment that the institutional legacies of public dispute resolution in Anglo-American countries outside of the USA have locked organizations into long established methods of conflict management. Institutional legacies can influence the strategic choices made by organizations, but they cannot make them prisoners of inherited practices. Organizations cannot

immunize themselves from exogenous and endogenous influences that might trigger the need for some form of adjustment to dispute resolution practices. Like in the USA, organizations in other Anglo-American countries have been exposed to a range of endogenous and exogenous influences that are encouraging them to rethink traditional conflict management practices. Exogenous influences include the decline of trade unions, strike-prone business sectors, more intense competitive pressures, a more educated and less deferential workforce whereas internal influences include the greater use of performance management and team work that can cause conflict relating to inter-personality rivalries to escalate and for harassment-based disputes to rise (Teague et al 2015). Together these influences are encouraging more individualized forms of workplace conflict that are not easily resolved by traditional conflict management practices.

In the absence of strong influences to change, whether these are institutional, organizational or wider business environment-related, it should come as no surprise that there is likely to be considerable built-in organizational reluctance to move radically away from established methods of addressing workplace problems. Conflict management practices are an important organizational routine – repeated patterns of behaviour – in that they shape the action, behaviour and interaction of organizational actors (Becker 2004). These practices establish cognitive scaffolds inside organizations that allow actors interpret and understand internal developments and incidents in the same way: they help build a shared organizational culture about how to handle workplace problems (Pentland et al 2012). They also develop standard operating procedures to address different forms of conflict: when it is appropriate to use formal grievance and disciplinary procedures and when it is better to use informal

conflict management. As organizational routines, conflict management processes foster a procedural memory inside organizations that stores experiences about what worked and did not work in particular situations (Wellman 2007).

If conflict management practices operate effectively, they may give rise to ‘situated specificity’ where organizational-specific knowledge and skills – tacit knowledge – leads to the invention of local solutions to generic organizational problems (Cohen et al 1996). These idiosyncratic conflict management procedures are likely to become embedded within organizations and may create what institutional theorists call increasing returns and positive feedback loops (Pierson 2000). Conflict management practices generate increasing returns when it is evident that they become more efficient and effective at addressing organizational problems the more they are used. Positive feedback loops occur when the use of conflict management practices to solve a workplace problem spills over to strengthen wider organizational relationships. Thus, for example, informal contacts between a manager and a trade union representative to address a grievance or impending dispute might allow the two to work constructively on other matters. Conflict management practices that produce increasing returns and positive feedback loops tend to produce self-enforcing equilibria inside organizations – organizational actors will seek to use them time and again, which further embeds the practices inside organizations (Grief and Laitin 2004). As a result, become committed to a particular set of conflict management policies and thus are reluctant to move away from these.

Organizations may persist with particular conflict management practices for reasons other than self-reinforcing equilibria. In most cases they do so due to ‘competency



traps' inside their organizations (Levitt and March 1988). For example, senior managers may become aware that collective negotiations with trade unions are likely to improve if interest-based bargaining procedures were introduced into the organization. However, they might decline to make this innovation as the skills to perform interest-based bargaining may be absent thus requiring management and trade union representatives to undergo intensive training. In other words, senior management calculate that the costs of reducing the competency gap with regard to acquiring interest-bargaining skill may be greater than the costs of persisting with established methods. As a result the *status quo* triumphs due to the presence of a competency trap. A huge shortcoming in much of the literature on workplace conflict management, which reflects a similar deficiency in the wider HRM literature, is the under-estimation of not only the transition costs of moving from one conflict management system to another, but also the operating costs of a different system once put in place (Piore 2015). Switching conflict management regimes may look superficially appealing, but on closer assessment senior management may become daunted by the scale of transition costs.

The argument that organizations may be reluctant to move away from conflict management practices should not be pushed too far. It is clearly the case that some organizations do change the manner in which they resolve workplace problems, sometimes radically so. Organizations may reach some type of critical juncture, which causes the costs of remaining with existing procedures to rise dramatically. As a result, organizations have an incentive to adopt innovations, even though the change may be disruptive and discontinuous, as established ways of solving workplace problems are cast aside and new procedures are put in their place (Weick and Quinn

1999). Thus, conflict management practices should not be viewed as fixed, indelible features of an organization. But we would suggest that outside the USA the radical overhaul of established conflict management procedures is likely to be uncommon as organizations neither face the institutional incentives to do so nor rarely experience a critical juncture of such magnitude as to precipitate far reaching change.

We suggest that organizations are more likely to upgrade conventional dispute resolution practices marginally or incrementally and not in a manner that will involve discontinuous organizational change. Managers are likely to prefer this method of adjustment, not least because the transition costs of moving from one set of conflict management procedures to another can be kept to a minimum. But an interesting issue that arises in relation to incremental innovation is whether pragmatic adaptations made to conflict management practices allow for the continuation of the established approach to addressing workplace problems – whether, that is, change occurs to secure organizational continuity - or whether change triggers a process of on-going incremental adjustments that gradually reconfigures established conflict management policies, the conventional to workplace problems mutates through creeping change (Conrad and Thelen 2015).

### **Routes to Workplace Conflict Innovations in Ireland**

To gain a closer insight as to why and in what ways organizations introduce conflict management innovations in Ireland, the authors conducted a detailed study of the ways in which organizations in the private and public sectors in Ireland introduced conflict management innovations. We adopted a multi-method qualitative research design that collected data through interviews and focus groups and a series of case

studies. The interviews were conducted with multiple stakeholders involved in the adoption and operation of ADR: managers, employer representatives, union officials and conflict resolution professionals. Interviews covered the genesis and development of ADR in organizations and were also used as a means of identifying potential case study organizations for intensive study.

Generating a population of case study organizations was recognized to be a key feature of the research design and so was conducted in a highly systematic manner to ensure that the cases selected were representative of the spectrum of ADR innovations evident in Ireland. Case studies were selected for study from a population list of all known instances where organizations had introduced ADR practices. The population list was compiled from a series of sources. These included cases identified in focus groups and other interviews, reports in specialist industrial relations publications (in particular the weekly publication *Industrial Relations News* (IRN), other media and press reports and cases presented at HR and industrial relations conferences. Discussions with conflict resolution professionals were also undertaken to identify cases. The list was stratified by the types of innovation(s) involved, providing sub-lists of cases of mediation, assisted bargaining, proactive line management involvement and involving multiple ADR innovations. Case studies were then chosen for intensive study from this stratified list based on a combination of ensuring as wide as possible a spectrum of sectors and organizations and achieving access to the required data. A series of interviews were conducted in association with the case studies and these were further supplemented by internal and by publicly available information on case study organizations. Interview data were analyzed on the basis of the themes and issues presented to interviewees (focused on the genesis and nature of

ADR innovations) in semi-structured interview questionnaires (individual interviews and case study interviews) and in power point overviews of interview themes (focus group interviews). Case study data were analyzed using the classical ‘triangulation’ methodology combining case study interviews with external and internal data on the organizations involved. The data collected in the study, which involves one of the largest and most diverse studies of the adoption of ADR in the literature to date, is summarized in Table 1.

The research found that organizations mostly adopt a reactive and ad hoc approach to workplace conflict innovation in Ireland. Established conflict management systems only get revised when the need to do so becomes apparent. Thus, for example, organizations may adopt some form of mediation in an attempt to reduce the time and costs associated with resolving some forms of conflict or when it is recognized that established conflict management practices are not particularly suited to addressing the increasing incidence of individualized, relationship-based problems. When introducing conflict management innovation the emphasis is usually placed on identifying a method of change that does not overly disrupt established conflict management practices. The motivation is to create *contextualized* conflict management practices that are compatible with the idiosyncratic features of the organization and not *optimal* conflict management systems that involves the adoption in some integrated manner internationally recognized best practices.

When asked to discuss their approach to innovative workplace conflict management policies, it was evident that most HR focus group participants were uneasy using the vocabulary of innovation when discussing workplace conflict. To some extent, the

reluctance to use innovation to describe how conflict management practices were revised, updated or adopted hints at the absence of a fully-fledged strategic approach to managing problems at work. One participant said: So there is an issue about innovation, is it a long process? Have we the time to do it? Does it actually work? Are we prepared to try this?... A lot of the time we are learning from previous innovations that we tried.’ Another commented: ‘innovation is great as long as it doesn’t turn into time-wasting or as a tool to prevent you from implementing something.’ Few participants said that they engaged in any type of comprehensive strategic reflection of workplace conflict policies – what they were doing and why they were doing it, whether there was a need to improve established practices and in what ways. Few also engaged in a benchmarking exercise to compare how they went about addressing workplace problems with how others approached the matter. With most participants reluctant to redirect their efforts towards revising or changing their workplace conflict practices, in the language of innovation, it is not surprising that none of the participants reported their organization diffusing ADR-inspired workplace conflict practices in any systematic manner. Few suggested that they had even considered the merits of these practices in any detail.

The approach to changing conflict management practices evident in the case of HR focus group participants was mirrored in the case of mediators and facilitators engaged by organizations to resolve individual or collective conflict. One commented that the pattern of innovation was based on a ‘kind of intuitive conclusion’ commonly adhered to by HR managers that:

*Ad hoc* bits of innovation every now and then, when the proverbial hits the fan, is going to be just as effective and possibly cheaper than putting in some kind of very complex and comprehensive set of

arrangements that are not just costly but perhaps risky and might be associated with [your] own reputation as a driver of innovation, in terms of whether these things work or not....

This approach was also seen to be related to the 'inherent caution and conservatism' of managers and of union representatives:

I'd say it's a kind of inherent caution and conservatism, you know, around 'what we have we hold; if it ain't broke don't fix it'. And I think that applies equally to management and unions. I think the parties value their well-established kinds of codified arrangements for collective negotiations and I think they would prefer to innovate on an *ad hoc* basis.... I think they know that they can actually have the best of both worlds: stick to the knitting if that's what you want to do and if they come into a situation where something completely different is needed they know that jointly they can agree to do that .... I think that from their point of view it makes a lot of sense. If you can have your cake and eat it... why bake a different kind of cake?

Thus, the most common pattern is for organizations to adopt an improvised and *ad hoc* approach to the revision of conflict management practices. At the same time, our research also uncovered an alternative approach to workplace conflict management innovations that involved neither the *ad hoc* adjustment of established dispute resolution practices nor the configuration of integrated conflict management systems. We found a group of firms standing apart from these two fairly well articulated approaches by adopting what may be called an incremental or evolutionary pathway to workplace conflict management innovation. HR managers in these organizations are unpersuaded by the prescriptive account of introducing conflict management changes by rational design. They hold the view that root-and-branch change to

conflict management arrangements is not warranted partly because workplace problems are more or less under control and partly because they believe that no 'silver bullet' solution exists to managing conflict inside organizations.

Although unconvinced about the merits of building ADR-based conflict management systems, these HR managers should not be viewed as improvisers. HR managers in organizations that pursue an evolutionary approach to conflict management change have a keener appreciation that workplace conflict, or the environment in which it arises, do not stay the same, and as a result workplace conflict management practices should not be viewed as immutable. HR managers adopting an evolutionary stance are willing to make adjustments to conflict management practices as it is recognized that without doing so a misalignment is likely to occur between the changing character of workplace conflict and its management. Thus those adopting an evolutionary approach tend to be less tied than improvisers to established conflict management practices. Equally, when an innovation proves to be effective those that adopt an evolutionary will be prepared to make further changes to properly embed the new arrangements and even adopt additional, augmenting changes. This evolutionary innovation pathway may be insufficient to trigger transformative change to conflict management systems, but it suggests that these organizations have the capacity to learn from what works, monitor what changes to conflict management practices are effective and are prepared to scale up, or least build upon, innovations. Organizations adopting an evolutionary approach to conflict management innovation identify and seek to improve continuously on piecemeal innovations, but may also dispense with ADR innovations where they fail to meet expectations or create

unanticipated problems. External mediators or facilitators sometimes see themselves as playing significant roles as catalysts of this kind of innovation:

Certainly in a lot of the cases I'm brought into are reactionary or crisis driven. There is space for innovative intervention, but it tends to be discrete interventions [pertaining] to a particular situation which organizations haven't been able to manage themselves. So, you go in and you look at policies and procedures. You look at the situation at hand and then devise a process for managing it. There would generally be opportunities to feed back in, make general recommendations, as well, such as how this type of situation might not arise again.

A HR manager identified a similar dynamic when describing an effort to depart beyond adversarial employment relations towards co-operation with unions in the context of a restructuring plan:

It was the first local agreement in 25 years. Surely by listening and engaging with the ideas of people on the floor, sometimes they're better than management ideas was kind of the point. I think that level of engagement opened a whole new door and moved that facility from being a place of very old style industrial relations.... That's a phenomenal shift in my view simply done by working with them on the problem at hand.... It's hard to write down what you do, 1, 2, 3 but it does work. There's greater engagement; a kind of trust builds.

While HR managers, mediators and facilitators focused in the main on internal organizational reasons for limited innovation, they also indicated that the external institutional environment contributed to inertia. The ready availability of the services of the state conflict resolution agencies, at no direct cost to users, was widely seen as a barrier to innovation within organizations. Making the change from behavior



embedded within conventional procedures was seen as extremely difficult, ‘especially when it is supported by an entire formal system that is telling you otherwise’:

As long as the State is going to declare itself as having set up a whole process, systemizing conflict resolution, employers are not going to invest in it themselves.

### **The Evolutionary Approach in Practice**

In order to gain more insight into this more incremental or evolutionary approach to introducing ADR, we focus on three case studies of organizations that in different ways have followed this path. Table 2 summarizes the details of these cases: an ICT firm, Eircom (since rebranded as Eir), a US-owned multinational catering firm, Aramark, and an Irish-owned multinational food distributor and retailer, Musgrave.

In each of these organizations, HR managers frequently treated improvised innovations as provisional in nature. A number of HR managers spoke about how they would not validate a new conflict practice until they were confident that it was effective in addressing the problem it was created to resolve and that it did not spillback negatively on pre-existing practices. Thus, for example, some spoke about how they initially used external mediators to deliver a new mediation service, only to abandon the practice after a time as it became evident that it did not work properly. As one HR manager explained ‘we’ve used externals. One of them almost ran away screaming saying he never wanted to see us again ... . He was very successful, but he had enough of both sides!’ Instead, internal staff members were trained up to deliver mediation, which turned out to be a more effective and cheaper way to operate the service. Thus, there was recognition that innovations could best be introduced through trial and error and monitoring to ensure their alignment with prevailing conflict management and HR practices. This illustrated how the evolving experience of a

conflict management innovation could operate as a catalyst for further adaptation to conflict management practices.

The genesis of the evolutionary approach at Aramark Ireland was the adoption of a stand-alone mediation programme for the Irish subsidiary but which was subsequently aligned with corporate HR strategy and identified for wider diffusion across the multinational. Mediation had originally been adopted in Aramark's Irish subsidiary for grievances concerning bullying and harassment in the wake of a new regulatory initiative on the topic by the Irish Government. The scope of mediation subsequently expanded to include other areas of interpersonal conflict. Proclaiming its commitment in its international operations to best-practice HR practices and CSR, Aramark adopted the mediation process pioneered in its Irish subsidiary as part of a corporate-wide approach to conflict management. As a senior management said, '*One Aramark* means we've one way of doing things so regardless of where employees sit we manage them in the same way. Mediation is provided to our employees regardless of where they work, recognition is applied to all our employees regardless of where they work. So that's a journey that we're on.'

The ICT firm, Eircom (since rebranded as 'eir'), provides a further instance of the evolutionary approach to workplace conflict management change. In this case again mediation was adopted in response to external regulatory change. However, it was then adapted to become one of a suite of HR policies devised to handle the firm's transition from a public service bureaucracy with strong trade unions to a commercial organization with both unionized and non-union staff. Mediation came to be regarded by some in senior management as a means of symbolizing and prioritizing the

individualization of employment relations and as a way of promoting the adoption of common HR practices across the firm's divisions and workforce: one manager suggested that strengthening and enlarging the role of mediation in the organization '*was*' really the formalization of practices that have grown but at the core of our approach is that we see employees as individuals. If you keep going back to that fundamental principle and you treat them that way you can find solutions.' Thus, while mediation was not formally enshrined in joint employer-union grievance procedures, the policy was transformed from being a stand-alone policy to one that dovetailed with other policies designed to recast employment relations and conflict resolution at Eircom.

The Irish multinational food distributor and retailer, Musgrave, provides another case of the evolutionary approach. Traditionally the company pursued organizational change through negotiating with trade unions. But senior managers became dissatisfied that these collective employment relations processes were not delivering the pace of change required to keep up with the increasing competitiveness of the retail market. To address this situation the company introduced a major employment engagement strategy that increased the role of line management in the organization. Very quickly line management involvement in grievance resolution increased significantly. As a result, the company experienced a growth of informal conflict management as line managers began identifying and resolving work problems. This tilt towards informal problem-solving led to the firm developing a range of new formal conflict management procedures designed to improve the problem-solving abilities of line managers. This case shows that the evolving experience of a new

conflict management practice may trigger additional changes to how problems or solved in the organization.

## **Conclusions**

The adoption of some type of integrated conflict management system is considered in the literature the preferred pathway to workplace conflict management innovation, although for different reasons. It is understandable why the literature prizes a systems approach to workplace conflict management – it requires organizations to develop a strategic approach to workplace conflict as well as to diffuse a battery of closely aligned conflict management practices that provides a full menu of choices to address workplace problems. In this paper we demur from this common position. We suggest that the growing adoption of conflict management systems is a peculiarly American preference, largely triggered by the big country-specific institutional incentives that encourage organizations to adopt non-legalistic, organizational-based approaches to resolving workplace disputes and problems. Our view is that workplace conflict management change can occur in different ways, with the institutional contexts or environments heavily influencing the innovation pathway adopted by organizations.

In the absence of institutional influences nudging organization to adopt integrated conflict management, it is suggested in the paper that organizations are unlikely to move radically away from tried-and-tested workplace conflict management practices. Certainly this appears to be the case in Ireland, as in other Anglo-American countries, where there is no evidence of a discernible trend towards ADR-based conflict management systems, at least not on a coherent, sustained basis. At the same time, the lack of any noticeable shift towards conflict management systems should not be taken

to mean that outside the USA traditional conflict management practices are immutable features of organizational life. Across the Anglo-American world, organizations are facing a range of pressures to upgrade their conventional dispute resolution practices. Most of these pressures do not constitute abrupt or disjunctive events that necessitate discontinuous change. Instead, they tend to unfold slowly and incrementally, not strong enough to rupture conventional organizational ways of solving problems, but sufficiently significant to create what Swidler (1986) calls unsettled times for traditional conflict management practices inside organizations. When unsettled times emerge the continuity of established conflict management practices becomes unstable, as they may not be adequate to address effectively new forms of conflict at the workplace.

In our research on how organizations in Ireland adopt conflict management innovations, we uncovered a dominant pattern involving improvisation, but also instances and cases of what we termed an incremental or evolutionary approach to the upgrading of workplace conflict management practices. Following an exhaustive investigation of ADR innovations, including those adopted by the Irish subsidiaries of US multinationals, we could only identify two cases that could be viewed in any meaningful sense as ‘strategic’ and neither of these involved the introduction of conflict management systems.

An evolutionary approach to workplace conflict management innovations envisions change occurring incrementally and in fits and starts, invariably involving a fair amount of trial and error, iteration and refinement. It is an approach that reflects organizational commitment to on-the-ground problem solving and learning about how

to align effectively conflict management practices with emerging patterns of workplace disputes. Organizations that pursue an evolutionary approach to workplace conflict management change tend to balance a commitment to established practices with an openness to experimentation. On this approach, any new practice is implemented with a great deal of diligence, not wishing to disrupt established workplace conflict management practices, but with a willing to contemplate further change should the innovation prove effective at addressing the identified problems. Thus, the evolutionary approach envisages conflict management practices changing continuously and cumulatively.

In this respect, an evolutionary approach stands apart from an improvised approach to conflict management innovation where the motivation in most instances is to patch up the established approach to organizational problem solving; change is made so that conflict management arrangements can stay the same. Improvised changes to conflict management practices are usually reactive and ad hoc, introduced uncritically to address a problem that has unanticipatedly emerged inside the organization. In our research, the majority of firms adopt this improvised approach to conflict management innovation. Time and again we found that improvised changes were made in an incoherent and disjointed manner, with the necessary organizational ground work not being properly completed to pave the way for the change that was being introduced. As a result, piecemeal and reactive change can frequently lead to sub-optimal conflict management arrangements, with practices malfunctioning in one way or another. It is difficult to see how this situation could be remedied by exhorting organizations to adopt integrated conflict management systems: the organizational leap required would simply be too big and the transition costs too high. The

evolutionary approach eschews the kind of systematic linkages of ADR and other conflict management practices to commercial and HR strategies and the concern with designing complete and mutually consistent sets of conflict management practices. A viable strategy, in Ireland at least, is to nudge organizations from making piecemeal conflict management adjustment towards a more coherent evolutionary pathway. This is the conflict management innovation agenda in Ireland.

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**Table 1: Data Sources and Methods of Data Collection**

<b>Methods</b>	<b>Roles of participants</b>	<b>Numbers participating</b>
<b><i>Telephone Interviews</i></b>		
IBEC officers	Provision of HR & IR Advice	4
Trade union officials	Representatives with experience of handling individual grievances and collective conflict	72
<b><i>Focus Groups</i></b>		
Focus group of HR managers	Senior HR roles in organizations	19
Focus group of union officials	Representatives	7
Focus groups of mediators & facilitators &	Private & public agency mediators & facilitators	11
Interviews with state & private facilitators	6 private facilitators; 8 LRC facilitators; 2 HSE senior managers	16
<b><i>Case Studies</i></b>		
*Musgrave Case Study	HR managers(2) & line managers(2)	4
*Aramark Ireland Case Study	HR Managers	3
*Eircom Case Study	HR managers (2) and trade union officials (2)	4
Intel Case Study	Senior HR/legal manager, employee relations manager, operational line manager	3
Bus Éireann Case Study	HR managers	2
HSE Case Study	HR managers (2) and trade union officials (2)	4
Central Bank Case Study		
HSE Dublin, North East Case Study	2 LRC facilitators; 2 HSE senior managers	4**
Total		155

- \* Cases reported in paper of the ‘evolutionary’ approach to adopting ADR innovations
- \*\* Included in total above for interviews with facilitators.

**Table 2**

<p style="text-align: center;"><b>Evolutionary Approaches to Conflict Management Innovation</b> <b>Mediation at Aramark Ireland</b></p> <p>Aramark Ireland is a subsidiary of a US-based multinational corporation, employing more than 4,000 full-time workers in Ireland, providing services to companies in almost 1,000 sites. The multinational operates a Global HR policy that allows for the development of some country-specific HR policy. It can be viewed as a consolidator as a mediation programme adopted to address a problem that had emerged in the implementation of a bullying and harassment policy has become a more prominent feature of the subsidiary’s HR policy and has also influenced the Global HR strategy of the multinational. Approximately 5 years ago the subsidiary in response to a public policy initiative on the topic, decided to adopt a new bullying and harassment policy. The implementation of this new policy gave rise to a series of protracted investigations that dealt with bullying and harassment claims in a cumbersome manner. Relatively quickly the HR team in the subsidiary concluded that it was unsatisfactory to implement its bullying and harassment policy through the use of investigations. As a result, it devised a new mediation programme that was initially designed solely to cover bullying and harassment cases</p> <p>A small team of staff in Aramark’s HR department operates the mediation programme that involves line managers being trained in mediation skills and actively includes trade unions in the process. So successful was the mediation programme in addressing bullying and harassment claims, the HR team decided to use it to address problems linked to performance management and absenteeism. The HR team considered the programme to be a success in these areas too. Over the past 3 years, the mediation programme has been used successfully to resolve 30 disputes. Within the subsidiary, mediation is now considered by the HR team as an important pillar to its conflict management policy and not simply as a pragmatic ‘add-on’ to its bullying and harassment policy. The HR team at headquarters too has been impressed with the Irish subsidiary’s experience of mediation as it is amending its Global HR policy to encourage the rolling out of mediation in other subsidiaries – a neat example of reverse diffusion.</p>
<p style="text-align: center;"><b>Mediation at Eircom</b></p> <p>Eircom is the largest integrated telecommunications operator in Ireland, providing fixed line and mobile voice networks, as well as broadband and television services. It has a complex ownership history: once a publically-owned enterprise, it has been the subject of several corporate takeovers since it was privatised in 1996. Currently, it has approximately 3,500 employees, 53 per cent of whom are covered by collective agreements. Traditionally, the organization has been the testing lab for Government-sponsorship employment relations experiments in the areas of employee-share ownership and workplace partnership.</p> <p>Like other organizations in Ireland, mediation was first set up in Eircom to address issues of dignity and respect at the workplace. To implement the policy, a number of Eircom staff have been trained as internal mediators and external mediators are also used occasionally when it is deemed appropriate to do so. Mediation has been provided in cases involving individual employees, who are not willing to</p>

work together, cases where there have been allegations of bullying, and cases concerning performance management. HR managers are satisfied that mediation allows them to deal with all staff on an equal basis and to adapt their management processes to a context in which fewer employees rely upon trade unions to represent their interests. Recently, the mediation programme has acquired a new status within the organization largely as a result of the HR team seeking to change radically the employment relations regime in the organization. In particular, it is seeking to individualize the management of the employment relationship in a thorough-going manner. Mediation is held up as emblematic of the new policies that the HR team want to diffuse. As a result, mediation is no longer viewed as a stand-alone policy, but as one element in an integrated suite of policies that are being pursued to recast the employment relations system in Eircom

### **Proactive Line Management at Musgrave**

Musgrave is an Irish-based, family-owned multinational company with 56,000 direct employees, approximately 62 per cent whom work in Ireland. It also runs franchises, operating under eight names in four countries. For nearly two decades the Irish retail sector has been getting increasingly more competitive due first to British retailers entering the Irish market and then subsequently low-cost retailers from continental Europe. This new commercial context obliged Musgrave to make organizational change a strategic priority. Initially, the company sought to use established collective employment relations procedures to negotiate organizational change. But after a few years, senior management became frustrated with these discussions. Not only was the scale and pace of change slow, but working almost exclusively with trade unions in committees to plan change initiatives meant that employees generally did not recognize the imperative for radical action.

As a result, senior managers launched a direct communications strategy to run in parallel with collective negotiations with trade unions. This strategy involved managers engaging directly with employees via a battery of new employee engagement practices. It also required line managers meeting with employees more frequently at both one-to-one and group levels and conducting performance management reviews more systematically. Very quickly, line managers became pivotal to implementing the core strategic objectives of the organization. In addition, their problem-solving role increased substantially as their formal and informal interactions with employees multiplied. Senior managers recognized this development and started training line managers in conflict management techniques as well as tweaking other HR practices to allow them to perform their problem-solving role unencumbered. As a result, effectively by stealth, line managers are central to conflict management at Musgrave.

