

# **“SEARCH FOR COMMON GROUND MOROCCO’S SUPPORT TO THE FORMATIVE STAGES OF MEDIATION IN MOROCCO - A BASELINE REPORT”**

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# ***I. Executive Summary***

## **1. Introduction :**

The mission of Search for Common Ground (SFCG) is to transform the way the world deals with conflict: away from adversarial approaches, toward cooperative solutions. Search for Common Ground began in 1982 at the height of the Cold War and focused on building bridges between the East and West. As global conflict has become more diffuse, so has Search for Common Ground. SFCG currently works in Africa, Europe, the Middle East, Asia, and the United States, and has a staff of almost 400 people. In addition, thousands of people directly participate in SFCG programmes, and millions more are reached through media projects.

SFCG has developed significant expertise in the field of ADR institutionalisation. In Palestine for instance, SFCG launched a five-year Legal Exchange Programme with the Palestinian Ministry of Justice in Ramallah, the West Bank in 1996. Through an integrated approach of exchange trips, skill-building workshops, and institutionalisation activities, the programme laid the foundation for the creation of two court-annexed ADR centres in the West Bank and Gaza.

In Ukraine, SFCG has established court-based alternative dispute resolution services within the Donetsk and Odessa regional courts. Jointly with the Academy of Judges of Ukraine, SFCG also conduct ADR workshops for newly appointed judges.

Morocco is currently drawing on both experiences to further lay the foundations of ADR in Morocco through a process of cross-fertilisation and practitioners' consultation and contribution. At this stage of the development of the legal constitutions for mediation in Morocco, the SFCG Alternative Dispute Resolution (ADR) programme in Morocco is at the 'formative' stage of creating the necessary conditions for ADR in Morocco. The focus of this programme has therefore been on relationship building, awareness and knowledge raising, and changing attitudes.

## **2. SFCG and Mediation in Morocco :**

In July 2001, SFCG opened a field office in Morocco and launched a variety of projects to build local capacity in sound conflict management and collaborative planning. With generous funding from the British government, SFCG-M launched training and skill building workshops in mediation for representatives of labour unions, the government and private sector representatives. It also organised a study trip abroad for Moroccan unionists. SFCG's intervention has spread to include developing community building programmes in shantytowns and strengthening the capacities of Moroccan associations through a series of trainings in mediation techniques, as well as in conflict resolution and interpersonal communication.

## **3. Introduction to the ADR Programme:**

The ADR programme is a multi-phase programme of four years whose overarching objective is **to strengthen the judicial reforms in Morocco.**

The first phase (ADR1) was a preliminary, preparatory stage that aimed at strengthening the Moroccan judiciary system and introducing mediation in Morocco with a focus on Ministry of Justice officials and judges. ADR1 has come to fruition after attaining most of its objectives and

accomplishing its set of activities. ADR1 has secured the buy-in from key decision-makers in the Ministry of Justice and prepared the ground for the next phases by organising a series of mediation trainings for judges and experts, a study tour to London, strategic planning session on the implementation of mediation in Morocco and an outreach conference day to raise public awareness of ADR mechanisms and their effectiveness, present the results of the first phase and draw recommendations for future progress. These introductory activities offered an informed perspective on how to effectively design ADR systems, as well as the problems to avoid.

An evaluation which examined the results of the ADR1 programme, as well as analysing the context for further programme phases, was conducted beginning of October 2005 by our internal evaluator, Mrs Alice Rowley. The ADR1 final evaluation report was shared with the British Embassy and the Ministry of Justice in December 2005. According to this evaluation, the first stage (ADR1) has successfully prepared the ground for the design and implementation of ADR2 and ADR3. It also states that the phased design of the ADR programme is relevant to the Moroccan context and that progress towards the desired outcomes of a formative programme in ADR (i.e. changes to knowledge and attitude of key stakeholders) is progressing.

An indicator of its concrete success is that a project of Mediation law has been elaborated in the Ministry of Justice and is in the process of being approved and adopted by the legislative apparatus while a new Memorandum of Understanding (ADR2) was signed in December 2005 between Search for Common Ground and the Ministry of Justice.

The second phase (ADR2) aims to further strengthen ADR in Morocco through building consensus and by sensitising lawyers and civil society organisations (CSOs) to the use of ADR mechanisms as a complementary and innovative tool and not as a substitute to the traditional way of justice (litigation). In this perspective of sensitisation and raising awareness, SFCG is organising discussion forums, roundtables, and training workshops, as well as developing and disseminating relevant pedagogical material on ADR practices ranging from guides to brochures and leaflets on mediation theory and practice. In May and June 2006, SFCG, in partnership with the MoJ and in collaboration with the Moroccan Bar Association, held the first set of ADR2 activities, namely two round tables targetting CSOs and Lawyers and involving members of parliament as well as a one-day training workshop on basic mediation techniques for the Lawyers groups. A steering committee facilitated by Search for Common Ground, and composed of representatives of civil society groups, Lawyers, parliamentarians, the Ministry of Justice, and the British embassy, will be constituted in October 2006 with the task to coordinate the next activities to be organised in the course of the ADR2 and ADR3 projects. The creation of this steering committee is the result of one of the recommendations drawn from the ADR1 evaluation report.

The copy of the project of Law on mediation is currently before the Parliament. The Minister of Justice has officially introduced the project of Law to the parliamentarians on May 3<sup>rd</sup> 2006.

The ADR 3 project logically and chronologically follows on the steps of the two previous phases. SFCG-M is seeking to help build local capacity in mediation and reach out to the public at large through a set of training workshops in advanced mediation skills (including one study tour in London, and one study tour in Paris) as well as designing a training programme (training manual for Moroccan mediators and a pedagogical video) that will be made available and accessible at the MoJ headquarters, in regional courts, in regional bar associations, and in civil society associations. A booklet on mediation to semi-literate populations as well as an educational video

(documentary film) will be produced to support the national awareness raising campaign promoting mediation.

#### **4. Acknowledgements**

First of all, in the name of Search for Common Ground-Morocco, I thank all the people who provided information for this baseline study especially the interviewees who took the time to respond to the answers of the questionnaire through the phone. I acknowledge that some sections pertaining to the first introductory part of this baseline (Executive Summary and background to ADR in Morocco) were based on the end of programme evaluation that was elaborated by Alice Rowley and Amine Ghoulidi on November 2005 and on SFCG-M ADR proposals, in addition to the tools used to collect the data. I also acknowledge that data collection was conducted by the SFCG-M team at the end of ADR1 and before the second phase, ADR2. Finally, I acknowledge the valuable contribution of Alice Rowley and Christina Ling from SFCG-DC and Abou El Mahassine Fassi-Fihri from SFCG-Morocco for their valuable feedback and insightful suggestions and editing.

#### **5. Summary of the methodology:**

This baseline has been carried out by Search for Common Ground Morocco (SFCG-M) and was undertaken by Kawtar Amraoui, Programme Coordinator for SFCG-M from August to September 2006. The purpose of this study was to provide information against which the development of the 2<sup>nd</sup> phase of the SFCG Alternative Dispute Resolution (ADR) programme in Morocco could be monitored and assessed. This section outlines the intended audience of the baseline, its scope, objectives, and approach. The final section describes the key steps and findings, as well as the tools developed.

##### **Intended Audience**

The baseline has been undertaken primarily to meet the needs of the SFCG programme team in Morocco, to provide comparable information for reflecting on the progress of SFCG support to mediation in Morocco, and to provide information and analysis to be used in the design of future phases in the ADR programme. The report will also be of use to other stakeholders within Morocco, namely the Ministry of Justice, as the process of introducing institutionalised mediation in Morocco is as yet in its formative stages and very little research on this topic has been undertaken to date. A full evaluation of ADR 3 and the whole programme is anticipated for the project end.

##### **Scope**

This baseline study provides information for the second phase of the SFCG ADR programme in Morocco (known as ADR2), and not the whole ADR programme - bearing in mind that an evaluation targeting ADR1 has already been conducted previously which captured some baseline information for the whole of the ADR programme. The key objective of this baseline report is to provide information to monitor the development of the second phase and measure the outcomes of its activities.

The first phase of the ADR programme in Morocco aimed to generate changes in the knowledge, attitude, and behaviour of key stakeholders, including judges and officials at the Ministry of Justice (MoJ), and the evaluation focused on these stakeholders. Since the current phase of the

programme (ADR2) focuses on different stakeholders from the first phase, and in order to develop sound recommendations, this baseline study has also collected and analysed information on the attitudes, knowledge, and behaviour of these other groups (lawyers and Civil Society Organisations). Since the ADR2 project is focusing primarily on lawyers and CSOs, this baseline report will thus provide us with on the level of knowledge, skills and attitudes that lawyers and CSO have presently before the launching of the first activities of ADR2. Throughout the project, the same range of data will allow us to closely monitor and assess change and evolution if any on the level of knowledge, skills and attitudes of the same target group. As mentioned earlier, an end of programme evaluation will take place at the end of ADR3 in order to evaluate all three stages of the project, ADR1, ADR2 and ADR3.

### **Baseline Objectives :**

The purpose of the baseline study was three-fold:

1. To provide a starting point from which data can be compared for future monitoring and evaluation;
2. To increase knowledge about the context of ADR in Morocco;
3. To outline key implications for future programming.

### **Baseline Questions :**

At an early stage of the baseline process, SFCG-M developed the questions. Due to the multi-purpose approach of the study, subsets of these questions were used with different stakeholder groups.

#### **Questions relating to the future needs of the programme (i.e. ADR2 and 3) included:**

*What are the knowledge and attitudes of different stakeholder groups and how should the future phases address these requirements?*

*What are the other needs, challenges, and opportunities that SFCG-M should address to reach the overall objectives?*

## **6. Summary of the Findings of ADR1:**

*In summary, Phase 1 of the ADR programme succeeded in addressing the needs of the MoJ and judges, in terms of providing training as planned. Outcomes identified during the evaluation include substantial changes in the knowledge and attitudes of key stakeholders. A key outcome that ADR1 made progress towards achieving was the creation of a general atmosphere of discussion and exchange between the different national stakeholders. In doing this, SFCG-M had to secure good working relationships with the MoJ and the judges, whilst at the same time seeking mechanisms to bring other actors in the process. These efforts were made tangible at the Outreach Conference that brought government representatives, judges, lawyers and CSO representatives together to discuss the ADR Project. Yet, some CSOs and lawyers felt that the MoJ representatives did not take their opinions into consideration and that the conference failed to address their apprehensions concerning the institutionalisation of mediation. Engaging different stakeholders into an open debate will be a critical step and at the same time a key challenge for SFCG-M's ADR programme in the future.*

*It is clear that Morocco is a fertile ground for mediation, but until the law is developed, many CSOs fear it, and how it will impact upon the current use of informal mediation. SFCG-M should continue to seek opportunities for deepening the changes in knowledge and attitudes achieved through ADR1, something that is planned for in ADR2 and ADR3. At the same time it needs to also play a role, during ADR2, in continuing the facilitation of dialogue between lawyers, CSOs, and the MoJ.*

*As a main actor of the ADR programme, SFCG-M needs to have more visibility during the different ADR events in order to increase awareness about its role, particularly on the consensus building side. There is no clear understanding (particularly from civil society) about the alignment of SFCG. CSOs and lawyers will be the focus of the second phase of the programme in an attempt to create a favourable atmosphere for the future institutionalisation of mediation. SFCG-M, as a Non-Governmental Organisation (NGO), is at a great advantage when dealing with Moroccan CSOs; CSO stakeholders who were not previously aware of SFCG-M's NGO status perceive SFCG to be natural collaborators. There are great opportunities for SFCG-M in ADR2 to extend the buy-in for institutionalised mediation, as well as the practical skills base, and to stimulate dialogue and consensus along the way. (End of ADR1 evaluation, November 2005).*

## **II. Stakeholders involved**

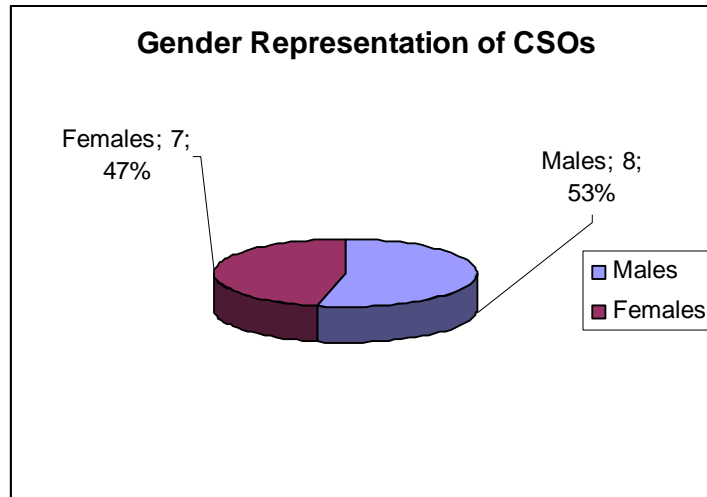
In order to meet the objectives of this ADR2 baseline, the stakeholders that have been



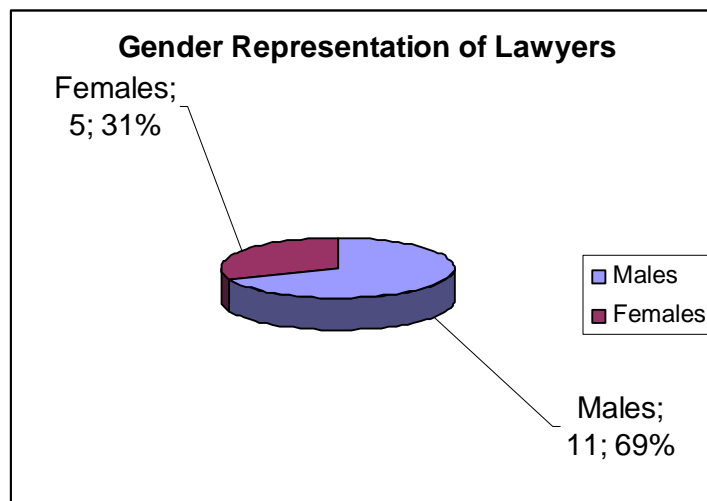
approached and interviewed are limited to CSO (A group) representatives (15) and lawyers (16) (B group). These are groups of stakeholders (Lawyers and CSOs) that were only minimally involved in ADR1 but that will be intensely involved in ADR2.

**Gender Representation :**

**. CSOs :**



**. Lawyers:**



***. Randomised Sampling***

A process of random selection was used to select the participants from the total population. The sampling was used for the large populations, who are potential participants of ADR2. The study sample under includes CSOs from various associations (Family, Feminist and consumers) and lawyers from different regions of Morocco. As shown in the graph 15 CSOs were interviewed ranging from 8 (53%) males and 7 (47%) females, along with 16 lawyers ranging from 11 (69%) males and 5 (31%) females.

***. Field Work***

The field work carried out was limited to random interviews done by phone. A total of 31 people were informants for the baseline from different locations: Rabat, Casablanca, El Jadida,



Marrakech, Oujda, the South region, and the North region and ranged between males and females. 5 CSOs and 10 lawyers were randomly interviewed on October 2005 (the findings of their interviews were integrated in the analysis of the end of project ADR1 evaluation.)

Another sample was randomly interviewed in February and March 2006 following the same process (Random sample selected from official list of registered CSOs working on consumer/family/feminist issues and of National BAR Association list for lawyers). This sample comprised 10 CSOs from different regions and 6 lawyers both males and females.

**. Baseline Plan:**

<b>Baseline Focus</b>	<b>Indicators/ Line of Inquiry</b>	<b>Means of Verification MOV</b>	<b>Data Source &amp; Target</b>	<b>Location of Data Collection</b>	<b>Conflict Considerations</b>	<b>Means of Analysis</b>	<b>Time Needed</b>
Change (Outcomes)	- Improve CSOs and Lawyers knowledge of mediation - Change their perception and attitude towards mediation	Random phone interviews	15 CSOs from different associations and 16 lawyers from different locations	The Rabat Office	The project of law and its implications on the informants who feel not involved in the discussions	Review and processing of filled in questionnaires	2 months (October 2005 & March 2006)
Assumptions	Resistance to the ADR program will diminish if the target group is sensitised to mediation and integrated into the phases of the program		15 CSOs from different associations and 16 lawyers from different locations	The Rabat Office	The project of law and its implications on the informants who feel not involved in the discussions	Review and processing of filled in questionnaires	2 months (October 2005 & March 2006)

### ***III. Findings:***

#### **1. Structure of Findings:**

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The report of findings starts with a general presentation of the results obtained in the questionnaires and attaining particularly to the target groups' knowledge, perceptions and attitude towards mediation and its role in the Moroccan society.

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- i. Knowledge of mediation
- ii. Perception and attitudes towards mediation
- iii. Programme Implications

#### **2. Findings:**

##### **Part i: Knowledge of Mediation**

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This section presents descriptive comparable findings. Direct quotes from unnamed respondents are inserted in coloured/grey boxes.

Data presentation centres on the amount of knowledge if any that the target groups have regarding mediation before the launching of the activities of ADR2 which focuses on these two groups: CSOs and lawyers that have been interviewed between February and March 2006 and these represent 10 CSOs and 6 lawyers in addition to 5 CSOs and 10 lawyers that have been interviewed in October 2005. This data will constitute the basis upon which the monitoring process will build upon later on and will also provide us with an insight into the added value that ADR2 activities will bring about.

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CSOs and lawyers were minimally involved not to say left out from the activities of ADR1 because of the very nature of that phase, which focused on judges and worked on securing the buy-in of the Ministry of justice rather than involving all stakeholders.

##### ***. Data Collection I (October 2005):***

##### **CSOs & Lawyers:**

As mentioned earlier 5 CSOs and 10 lawyers were randomly selected and interviewed by phone in October 2005 before the end of the ADR1 evaluation and the findings from the evaluation were as follows<sup>1</sup>:

- Both CSOs and lawyers generally have positive attitudes towards mediation, although there are apprehensions in both groups relating to the institutionalisation of mediation. 100% of all CSO and lawyer respondents said yes to the question 'do you think widespread mediation would be

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<sup>1</sup> The findings of this section are drawn from ADR1 end of project evaluation that took place in November 2005.

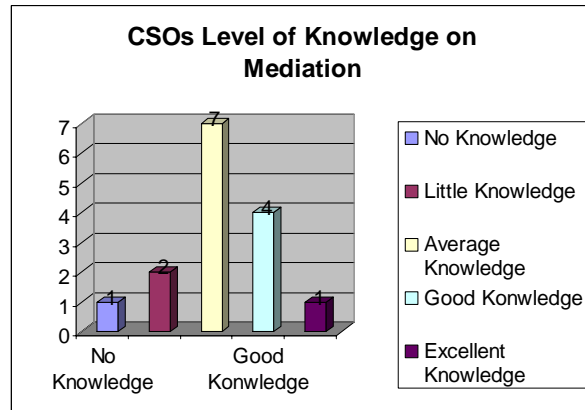
beneficial to Morocco'. It is important when analysing stakeholder attitudes that mediation and its institutionalisation (specifically the Mediation Law Project) are distinguished.

- CSOs generally consider themselves to be the most experienced mediators. They currently feel isolated from the Law Project and would like more information about it.
- Similarly, the majority of CSOs expressed concerns about the implementation of the Mediation Law and asked for more communication and transparency from the legislator's part.
- A minority of them demanded that their recommendations and inputs should be considered in the Mediation Law's development.
- Others wanted more clarification concerning the impact of the institutionalisation of mediation on their activities. This lack of clear information on the Mediation Law Project has generally put the CSOs on the defensive, creating more tension and stimulating more resistance.
- Lawyers do have a certain level of resistance to the Mediation Law Project, which is perceived to be a threat to their own situation (professional and financial).
- Lawyers have demonstrated a certain level of resistance to the incorporation of such a law on mediation. For over half of the lawyers interviewed, the introduction of institutionalised mediation is seen as a "threat" to their core activities. They believe that mediation, being an alternative to the "normal" litigation procedure, would reduce the number of suits brought to court and consequently affect their earnings. More generally there is a perception that not being part of the process would negatively affect their activities and income.
- The majority of lawyers believe that they can be effective mediators as well and that the mediation role should not be monopolised by the judges. Most lawyers are organised under an entity called "Association marocaine des Barreaux d'avocats" that has significant power, thus not addressing their apprehensions would definitely generate more resistance, which could consequently create an environment that would affect the passing of the Mediation Law and the implementation of the future ADR phases.

**. Data Collection II (February – March 2006):**

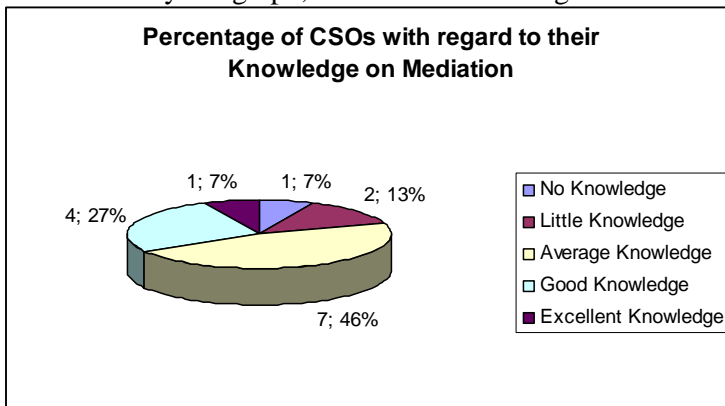
- **CSOs:**

The majority of CSOs have already addressed mediation in their work especially consumers and feminist associations. Yet, their input to the formal process of ADR in Morocco remains limited and unstructured as their knowledge in mediation remains either average or below it. The majority (10 or 67% against 5 or 33%) didn't succeed in listing the principles of mediation bearing in mind that they all have heard about mediation. Their input at work seems to be more concentrated on conciliation<sup>2</sup> than on mediation.



By examining question 2 of the questionnaire, one could figure out 5 distinct levels of knowledge among CSOs. The results are as follows:

As shown by the graph, 5 levels of knowledge can be identified: no knowledge, little knowledge, average knowledge, good knowledge and excellent knowledge. The majority of CSO groups (7; 46%) scored average knowledge of mediation, which they probably use in the context of their work in a spontaneous and unstructured way. The minority (4; 27%) demonstrated good knowledge of it, which might enhance their buy in of the program. The rest of the



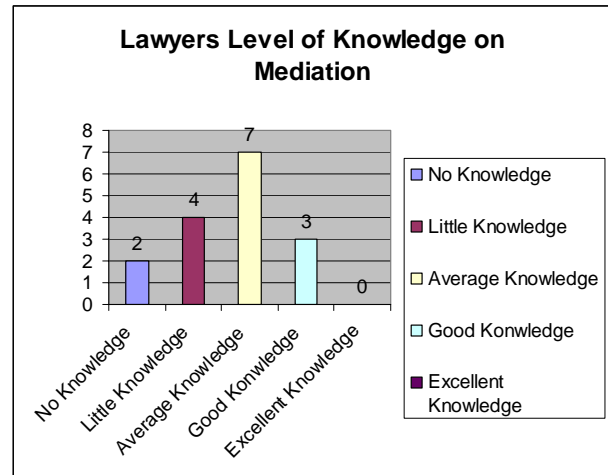
respondents scored 13% with regard to little knowledge and equally 7% in terms of both no knowledge and excellent knowledge of mediation.

- **Lawyers:**

The majority of lawyers (43%) have already addressed ADR in their work in different areas be it in the field of commercial disputes, family disputes, civil disputes or labor disputes. Only 2 respondents (13%) out of a total of 16 claim having zero experience in the field of ADR mechanisms. Their level of knowledge with regard to mediation process principles and skills varies between poor, average and good.

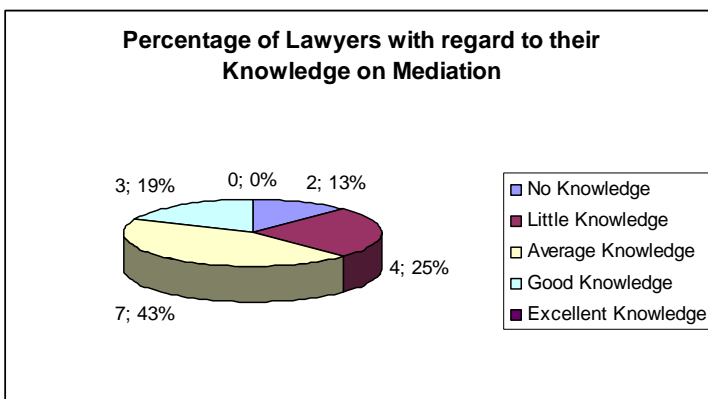
<sup>2</sup> Conciliation is an alternative dispute resolution process whereby the parties to a dispute agree to use the services of a conciliator, who then meets with the parties separately in an attempt to resolve their differences. Conciliation differs from mediation in that the main goal is to conciliate, most of the time by seeking concessions. In mediation, the mediator tries to guide the discussion in a way that optimises parties needs, takes feelings into account and reframes representations. In conciliation the parties seldom, if ever, actually face each other across the table in the presence of the conciliator. (Most practicing mediators refer to the practice of meeting with the parties separately as "caucusing" and would regard conciliation as a specific type or form of mediation practice -- "shuttle diplomacy" -- that relies exclusively on caucusing. (Wikipedia encyclopedia)

By examining question 2 of the questionnaire, one can distinguish between 4 levels of understanding between lawyers group. The results are shown in the following graph:



As demonstrated by the graph, 4 levels of knowledge can be identified among this group: no knowledge, little knowledge, average knowledge and good knowledge. The portions given to each level are almost similar and vary between 2 and 4 except for average that scores the highest rate (7 or 43%).

What is noteworthy is that unlike CSOs group, lawyers group have all some notions on ADR: although they are sometimes classified as being below average or little knowledge, they managed to list in the questionnaires the principles of mediation; which might be explained by the nature and implications of their work as lawyers. In some cases, they find themselves in the shoes of the mediator either upon the parties request or because of the very nature of the case itself that requires ADR means. 25% of the rest of respondents scored little knowledge while 19% scored good knowledge of mediation.



## Part ii: Perception and attitude towards mediation

- CSOs

All respondents without exception share the view that mediation as an alternative dispute resolution mechanism will have a beneficial impact on Morocco. They perceive mediation as an amicable mean of preventing conflicts from escalating and reaching the court system; which is considered to be costly by the layman.

One of the interviewees observed that, *“mediation is a preventive and audacious method that would facilitate the life of people since not everyone has got the financial means to recourse to the court.”*

All 15 interviewees are aware of its various advantages and its efficiency. They see it as a pragmatic tool ensuring fast, cheap and positive solutions that brings in mutual satisfaction and gain to both parties; which is denotative of their interest in mediation and their eagerness to learn of mediation either through newspapers, internet, colleagues or else. On the other hand, some respondents (9) are also aware of their lack of knowledge regarding mediation, the nature of the process and its usage and they request activities that would improve their understanding and make them gain a better insight into this newly adopted process.

***“I would like to get information on mediation especially in cases of married couples, and in terms of techniques, steps, and procedure, my knowledge is lacking in this sense.”*** Observed one interviewee. 7 others stated that, ***“the program needs to provide local associations with training and more information on mediation.”***

It is significant to note that some of them (5) do not see mediation as a substitute for the court system but rather as a complementary tool that would alleviate the burden on courts and decrease the number of annual cases treated legally. They are also aware of its human dimension that saves faces, respects parties’s privacy and guarantees them a good and lasting relationship.

***“Mediation is a very important topic and project that will serve to ostensibly alleviate the judicial system; which is suffering from the crisis of cases’ accumulation compared to a limited number of judges. It will also serve citizens in solving their disputes amicably through a simple, democratic and private way away from constraints and fear and more towards the respect of their dignity and humanity.”*** Claimed one of the respondents.

Others (5) strongly believe that mediation will have a positive impact on the Moroccan society as it is not a Western tool imported from foreign countries but rather a local concept and product that is deeply rooted in the history of Morocco and a practice that is steeped in the local tradition and culture.

***“Mediation will impact positively on the Moroccan society and be widely accepted because it was largely in the Moroccan society and is still part of our culture. Mediation is not really new to our society, it only needs to be revived and institutionalised following a structured and modern strategy.”*** CSO

Another important point that should be raised is that some of them (though a minority: 2) think that the mediation system will create a social profession (that of the mediator or more specifically the social mediator as they name it). The latter would solve a great deal of conflicts in a constructive and peaceful way; which would promote the culture of dialogue and peace and encourage the spirit of win-win.

To conclude with, the respondents unanimously expressed their interest and readiness to participate in all the future activities of ADR2 programme and share a positive vision and attitude towards the implementation of mediation in Morocco as long as they are involved in the process and their role is clearly defined.

- **Lawyers**

14 respondents out of 16 share the view that mediation, as an alternative dispute resolution mechanism, will have a beneficial impact on Morocco provided lawyers are part of this process. They see the insertion of mediation as an alternative means of resolving conflicts from a good lens.

***“Mediation is a good alternative way of resolving conflicts amicably and fastly and without creating a winner and a loser but all parties are winners.”*** Observed one of the lawyers.

Almost all respondents (14) especially those who scored average and good knowledge are aware of the various advantages of mediation and its core principles. Many of them share the view that mediation is a cheap, speedy and efficient way of resolving conflicts amicably without altering the workability of relationships.

***“Mediation as a new concept of dispute resolution will alleviate the burden on courts, treat cases fastly, offer efficient solutions to disputes, preserve relationships between parties and ensure confidentiality of the process.”*** Noted one of the lawyers.

Their reticence stems from the apprehension of being excluded from the process as they reiterated their wish to be involved in this phase, to take part in its activities and to be trained in ADR mechanisms. Many lawyers (15) expressed their willingness to participate in trainings either locally or abroad as they intend to deepen their knowledge on mediation and get equipped with the required skills. Yet, others (7) remained skeptical to mediation’s proper usage in Morocco as they claim that it might not succeed in a context where corruption is widespread and no administrative control is being practised.

***“There are many things that are not working well in the current legal system that could be improved. Instead of adding a new procedure (mediation), MoJ should invest its energy in strengthening what already exists”*** Said one lawyer. In the same line of thought, another one stated bluntly that, ***“Mediation will be affected by corruption and the value crisis. How would you want parties to trust mediators while they don’t even trust their own lawyers. ”***

The extent of the lawyers’s buy in the ADR programme is subject to how much they are involved in the process and how much they gain from it be it at the pedagogical level (the level of trainings and round tables) or at the financial level (the level of honorarium). That is why their first concern was oriented towards the project of law on mediation and its stipulations. They want it to be detailed and all inclusive on who does what, in what circumstances and for what type of incentive. They want to make sure that they will not lose potential clients and that they will have their share in the cases that are to be solved through mediation.

***“If the mediation process is to marginalise lawyers, then I am against the reform. The reform should not have a negative impact on the lawyers’ revenues.”*** Stated one lawyer.

A minority sees the importance (2) of making mediation procedure compulsory before resorting to court in order to resolve conflicts in a more flexible and speedy way. This reflection is important in the sense that it confirms the buy in of lawyers in the project and in mediation as long as they are not left out and their role is acknowledged and preserved.

Some respondents (3) view official mediation as being a new concept and procedure and stress therefore the need for “selling” to the wide public through awareness-raising campaigns that would inform citizens about the project of law and sensitise them to the utility and advantages of mediation.

***“The insertion of mediation is dependent on how efficient is the strategy of promoting mediation and its usage among the wide public. The latter should be sensitised to its different advantages and implications.”*** Emphasised one of the lawyers.

### **Part iii: Programme Implications**

In the light of the findings of the baseline that are discussed above, it seems that the ADR programme is on the right track and that the issues that came out in the questionnaires distributed and filled in by participants, will be all addressed in the second phase of the ADR programme, ADR2 – although this will only be assessed during the ADR Programme Evaluation (at the end of ADR 3). All concerned parties will be involved and will participate to the wide range of ADR2 activities, namely CSOs, and lawyers.

The inclusion of all affected interest groups (Lawyers and civil society organisations) will help increase the likelihood that all questions critical to the success of ADR implementation in Morocco will be asked and answered. Also, groups that are included will likely feel some “ownership” of the project, which in turn should reduce potential resistance at a later stage.

In this perspective of further raising awareness, we will organise a series of regional workshops as well as develop and disseminate relevant pedagogical material on mediation. Our role in this project is to help ensure that the ADR mechanisms are well conceived and well perceived by engaging all stakeholders both at the national and regional levels.



## ADR 2 Baseline – Search for Common Ground Morocco

### Questionnaire A - CSOs

#### Telephone Structured Interview

#### **INSTRUCTIONS:**

- Introduce yourself, the interview and evaluation. It is to learn about the outcomes of the first phase of the ADR project. Explain that we're interested in talking to them to get their perspective on ADR generally, as well as some feedback on the ADR project.
- Explain that the information they provide will be treated confidentially (i.e. the sources of information will not be attributed, although we will include their name in an appendix of stakeholders).
- Complete this form during the interview. Carefully note answers to open questions and circle the response for closed questions.

**Interview:**  
 Interviewer Name:  
 Date:  
 Interviewee Name:  
 Location:

**Circle correct answers below:**  
 Face-to-face /  
 Male /  
 Rural /  
 North / South

#	Question	Response	COD E
1	What is your area of speciality?	- Family association - Feminist association - Consumers association - Other: governance and democracy	
2	Have you ever heard of ADR?	Yes/No	
	<u>If yes, in what ways?</u>	- TV/radio/newspapers - Internet - Books - Colleagues	

		<ul style="list-style-type: none"> <li>- Ministry of Justice</li> <li>- SFCG</li> <li>- Other:</li> </ul>	
3	Have you ever addressed ADR issues in your work?	Yes/No	
	<i>If yes, in which context?</i>		
4	On a scale of 1 for no understanding to 5 for complete understanding, how would you rate your comprehension of mediation theory?	<ul style="list-style-type: none"> <li>1 – no understanding</li> <li>2 – poor understanding</li> <li>3 – average understanding</li> <li>4 – good understanding</li> <li>5 – excellent understanding</li> </ul> (circle number)	
5	What aspects of ADR/mediation would you like more information on?		
6	What are the principles of Mediation? (please list all that you know)	<ul style="list-style-type: none"> <li>- Confidentiality of mediator</li> <li>- impartiality of mediator</li> <li>- equal treatment by mediator</li> <li>- separate meetings</li> <li>- voluntary participation by parties</li> <li>- non-judgemental mediator</li> <li>- Binding agreement</li> <li>- Decision by parties</li> </ul> Other: I don't know	
7	Do you think ADR would have a beneficial impact on Morocco?	Yes / No (circle)	
	<u>If yes</u> , From the following list, please rank from 1 or the most important to 7 for the least, what you think are the reasons for doing ADR:	<ul style="list-style-type: none"> <li>- Improved relationships</li> <li>- To save time</li> <li>- To let the courts focus on criminal prosecutions</li> <li>- To save money</li> <li>- To reduce conflict from disputes</li> <li>- To give people privacy to resolve their disputes</li> </ul>	
8	Are there any other reasons for institutionalising ADR?	<ul style="list-style-type: none"> <li>• Yes/No</li> </ul>	
	<u>If no</u> , what are the reasons for not institutionalising ADR?		
9	What do you think are the general issues affecting the development of ADR in Morocco?		
10	What types of support to the ADR process in Morocco do you think are required?		

11	Would you like to participate in future SFCG training workshops on ADR	Yes / No	

Any other comments?

## ADR 2 Baseline – Search for Common Ground Morocco

### Questionnaire B – Lawyers

#### Telephone Structured Interview

#### INSTRUCTIONS:

- Introduce yourself, the interview and evaluation. It is to learn about the outcomes of the first phase of the ADR project. Explain that we're interested in talking to them to get their perspective on ADR generally, as well as some feedback on the ADR project. When we ask you about ADR we're considering this as mediation
- Explain that the information they provide will be treated confidentially (i.e. the sources of information will not be attributed, although we will include their name in an appendix of stakeholders.
- Complete this form during the interview. Carefully note answers to open questions and circle the response for closed questions.

<p><b><u>Interview:</u></b>  Interviewer Name:  Date:  Interviewee Name:  Location:</p> <p><b><u>Circle correct answers below:</u></b>  Face-to-face / Telephone interview  Male / Female  Rural / Urban  North / South</p>
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#	Question	Response	CODE
1	What is your legal area of speciality?	<i>Employment</i> <i>Family affairs</i> <i>Commercial</i> <i>Penal</i> <i>Other:</i>	

2	Have you ever heard of ADR?	Yes/No (if no – go to question 3)	
	<b>If yes, where have you received information on ADR from?</b>	Tick all: - Professional journals - TV/radio/newspapers - Internet - Books - University - Colleagues - Ministry of Justice - SFCG Other:	
3	Have you ever addressed ADR?	Yes/No	
	<b>If yes, in what ways?</b>	- ADR training - Discussions on ADR (formal) - Discussions on ADR (informal) - Interaction with professional society - Interaction with Ministry of Justice - Interaction with other groups - Other:	
4	On a scale of 1 for no understanding to 5 for complete understanding, how would you rate your comprehension of mediation theory?	1 – no understanding 2 – poor understanding 3 – average understanding 4 – good understanding 5 – excellent understanding (circle number)	
5	What are the principles of Mediation? (please list all that you know)	- Confidentiality of mediator - impartiality of mediator - equal treatment by mediator - separate meetings - voluntary participation by parties - non-judgemental mediator - Binding agreement - Decision by parties Other: I don't know	
6	Do you think the widespread use of ADR would have a beneficial impact on Morocco?	Yes / No (circle)	
	<b>If yes, From the following list, please rank from 1 or the most important to 6 for the least, what you think are the reasons for doing ADR:</b>	- Improved relationships - To save time - To let the courts focus on criminal prosecutions - To save money - To reduce conflict from disputes	

		- To give people privacy to resolve their disputes	
<b>Are there any other reasons for institutionalising ADR?</b>			
<b>If no, what are the reasons for not institutionalising ADR?</b>			
<b>7</b>	<b>Why did you not participate in the SFCG ADR outreach conference?</b>		
<b>8</b>	<b>Would you like to participate in future SFCG training workshops on ADR</b>	Yes / No	

**Any other comments?**