

## **Resolving Family Business Conflicts in Morocco: A Mediation Approach, BIRGACH, H.<sup>1</sup> and SEGAME, I.<sup>2</sup>**

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### **Abstract:**

The purpose of this study is to emphasize the role of mediation in dealing with the emotional conflicts among family members. The key argument is that the success of family businesses depends on how family members deal with the resolution of conflicts among them. We present in our paper how family businesses can opt for a mediation approach to resolve conflicts among family members.

Semi-structured interviews were conducted with five mediators who practice their profession in Morocco. The interviews were analyzed using theme-based analysis to explore the mediation process and the factors to consider when mediating a family business. The mediators were kept anonymous to ensure confidentiality.

The study found that conflicts in family businesses are the hardest conflicts to resolve due to the relationship among family members, and that the conflicts present an ambiguity and confusion in family vision, in heritage and culture. Our mediators identified five stages of the mediation process which is Reception, issues identification, Mutual recognition, the how stage, and finally the choice of the solution, we develop in the paper a model resuming the process of mediation, factors to consider in the family business and the main conflict that occur among family members.

The analysis of the value of the results suggests that institutionalizing the use of a third-party mediator, facilitator of decision-making, is an opportunity to consider as a preventive solution of conflicts. Future research steps could include a more comprehensive exploration of the cultural factors in family businesses and their impacts on the mediation process.

**Keywords:** Mediation, Conflicts, Family businesses, Appraisal theory.

# La résolution des conflits des entreprises familiales au Maroc : Une approche de médiation

## **Résumé :**

Cette étude vise à présenter la médiation comme mode alternatif de résolution des conflits dans les entreprises familiales marocaines. L'argument clé est que le succès des entreprises familiales dépend de la façon dont les membres de la famille gèrent la résolution des conflits entre eux. On présente dans notre papier comment les entreprises familiales peuvent recourir à la médiation comme mode de résolution des conflits.

Des entretiens semi-directifs ont été menés auprès de cinq médiateurs exerçant leur métier au Maroc. Les entretiens ont été analysés à l'aide d'une analyse thématique pour explorer le processus de médiation et les facteurs à considérer lors de la médiation d'une entreprise familiale. Les médiateurs ont été gardés anonymes pour assurer la confidentialité.

L'étude a révélé que les conflits dans les entreprises familiales sont les conflits les plus difficiles à résoudre en raison de la relation entre les membres de la famille, et que les conflits présentent une ambiguïté et une confusion dans la vision familiale, dans le patrimoine et la culture. Nos médiateurs ont identifié cinq étapes du processus de médiation qui est l'Accueil, l'identification des enjeux, la Reconnaissance mutuelle, l'étape du comment, et enfin le choix de la solution, nous développons dans l'article un modèle reprenant le processus de médiation, les facteurs à considérer dans l'entreprise familiale et les principaux conflits qui surviennent entre les membres de la famille.

L'analyse de la valeur des résultats suggère que l'institutionnalisation du recours à un tiers médiateur, facilitateur de la prise de décision, est une opportunité à envisager comme solution préventive des conflits dans les entreprises familiales. Les prochaines étapes de recherche pourraient inclure une exploration plus complète des facteurs culturels dans les entreprises familiales et de leurs impacts sur le processus de médiation.

**Mots clés :** Médiation, Conflits, Entreprises familiales, Théorie de l'évaluation (théorie de l'appraisal).

## Introduction:

Several studies have emphasized the important contributions of family businesses in the global economy (e.g., Birdthistle *et al.*, 2022). Family firms are characterized by several factors that distinguish it from the non-family firms such as the intention to transfer the company to future generations (Dibrell and Memili, 2019) the level of familiness among family members (Habbershon and Williams, 1999) and their interest to achieve their non-economic goals such as preserving socio-emotional wealth (Berrone *et al.*, 2010; Gómez-Mejía *et al.*, 2007) and family harmony in the family business (Birgach and Habba, 2022).

However, the relationship between family members plays a crucial role in the success of the family firm (Suess, 2014). The latter depends widely on the functionality of the family (Stafford *et al.*, 1999). While a significant portion of researchers started to take an interest to develop the main factors of harmony (Birgach and Habba, 2022) and cohesion (Bettinelli *et al.*, 2021) to avoid conflicts among family members in family businesses; Others are rooted to develop the relationship among governance and conflict avoidance (Islas-Moreno *et al.*, 2021).

Prior researchers have focused on the conflict in the family business context (e.g., Frank *et al.*, 2011; Kellermanns and Eddleston, 2004; 2007). Conflicts among family members emerge due to a wide range of multiple causes. According to the study of Birgach and Habba (2020), the authors identified several sources of conflicts in the Moroccan context. First, the divergence of interest which present the heterogeneous goals among family members. Then, the dispersion of management is related to the ownership of the management by several members and finally the confusion of role. The main idea that emerges from the work on family businesses is the fact that family members hold a dual role being a family member on the one hand, and a member of the business on the other hand; which makes it difficult to meet the needs and expectations of the family and the business (Gersick *et al.*, 1997; Memili *et al.*, 2015; Caputo, 2018).

That said, it should be noted that there are a number of solutions that can resolve conflicts between members of a family business other than a legal action before the competent court.

Indeed, recourse to alternative methods of conflict resolution can prove to be effective, cost-efficient and makes it possible to circumvent the judicial spiral which is characterized, in many respects, by its inefficiency and which very often constitutes an obstacle both to peaceful continuation of the activity of the family business as well as harmony between family members.

Alternative methods of conflict resolution include, among others, negotiation<sup>1</sup>, conciliation<sup>2</sup>, expertise<sup>3</sup>, mediation and arbitration<sup>4</sup>.

While there are multiple studies that present many conflict resolution methods in the family businesses (e.g, Caputo *et al.*, 2018; Alderson, K., 2015), we suggest to present in this paper the role of mediation in the resolution of conflict among family members by developing the legal and the managerial perspective in the Moroccan family businesses. Indeed, mediation consists in managing the emotions of the stakeholders around a conflict, which led us to base our study on appraisal theory which presents dimensions that can lead to especial emotions among family members (Lerner and Keltner, 2000).

This paper presents a theoretical background of the study by identifying the main sources of conflicts in family businesses in the literature by many researchers, in the same section we present the main contributions of appraisal theory in general and in the context of family businesses in particular, then we present a conceptual frame of mediation in the literature and according to the Moroccan Law. The second section present details about the exploratory methodology adopted by authors and finally the last section presents an analysis and discussion of the results related to the role of mediation in conflict resolution.

## **1. Theoretical background**

### **2.1- Field of conflict**

#### **2.1.1- Typology of conflicts in family businesses**

Family business researchers are increasingly interested in the issue of conflict between family members and its direct impact on the continuity of the business (e.g., Jehn, 1995; Jehn, 1997; Kellermanns and Eddleston, 2004; Kanadli *et al.*, 2020). Indeed, the conflict in family business have been categorized into three types by Kellermanns and Eddleston (2004) task conflict, process conflict and relational conflict. The authors define task conflict as the manner which tasks should be done by family members. It allows them to understand their role in the company (Amason and Schweiger, 1994; Jehn, 1997) and have discussion of the family business's strategies and goals. The process conflict describes the achievement of work and responsibilities by each family member (Jehn, 1997; Jehn and Mannix, 2001). And finally, the relationship conflict is related to rivalries and misunderstanding among family members (Simons & Peterson, 2000). Several authors have confirmed the impact of conflicts to weaken family members relationships, it includes anger, irritation, confusion and other negative emotions (Jehn and Mannix, 2001).

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<sup>1</sup> Party-based process without the use of third-party assistance. No legal rule governs negotiation in Morocco.

<sup>2</sup> Party-based process, with or without the use of third-party assistance (conciliator). The conciliator has an active role as he proposes solutions which, however, have no binding character.

<sup>3</sup> The parties call on an expert to give an opinion on a financial or technical question concerning the dispute between the parties. The procedure is generally adversarial, may be confidential but is not binding.

<sup>4</sup> non-amicable dispute resolution procedure. An arbitrator or an arbitral tribunal is appointed by the parties to rule definitively on the dispute by virtue of an award which is binding on the parties after approval thereof by the competent court.

Because of the interaction of family-business systems in the family business, conflict resolution is complex and difficult (Memili *et al.*, 2015; Sorenson, 1999). For the family, emotional wealth is built over time, the opportunistic actions of family members can lead to its loss and thus to long-term relationship conflicts (Kidwell *et al.*, 2012; Cleary *et al.*, 2019). Even more so, family members lose all rational and logical reasoning due to their subjective judgement (Thomas, 1992); this constitutes a socio-emotional cost for family members. The assessment of the company is then reached, each angry member uses senseless judgments and intensifies the conflict (Lerner and Keltner, 2000; Simons and Peterson, 2000).

Besides, According to Nosé *et al.*, (2017) and previous research (Eddleston and Kellermanns, 2007; Jehn and Bendersky, 2003), relationship conflicts have a negative effect on business performance and satisfaction. In addition, the results of the authors (Nosé *et al.*, 2017) also showed that satisfaction in the family business is strongly linked to cohesion, adaptability and communication which can be an effective alternative of resolving relational conflicts in the family business.

### **2.1.2- The main sources of conflicts in Family business**

Conflicts in the family business are generally among family members despite their generational level (Sonfield and Lussier, 2009). It emerges from incompatibilities and heterogeneity of goals and interest due to the different generations in the company with an *“affective components such as feeling tension and friction”* (Jehn and Mannix, 2001, p. 238; Rousseau *et al.*, 2018).

To study the mediation as an alternative of resolution of conflicts in family businesses, it is important to identify the main sources of conflict that we can resume below.

#### **2.1.2.1- The generational conflict**

Traditionally, research on family firms considers the interests of family owners to be compatible and homogeneous (e.g., Carney, 2005; Morck and Yeung, 2003). Indeed, family members diverge in their financial and non-financial interests, leading to potential conflicts and rivalries (Bertrand *et al.*, 2008, Eddleston and Kellermanns, 2007). This heterogeneity results from family drift to higher generations which makes family ownership increasingly complex over time (Gersick *et al.*, 1997). Ward (1997) argues that as the family grows, goals and interests become more diverse. Thus, he argues that the real threat to the future of the family business emerge from the different values and goals among family members. <sup>[SEP]</sup> The evolution of the life cycle of the family business leads to the identification of three generational stages (Jayantilal *et al.*, 2016; Nazer and Llorca-Jaña, 2020).

First of all, the founders' stage: At this stage, the main concern of the father of the family is succession and the transfer of power, then the second generation (siblings): this stage is characterized by the division of shares, it is the stage of manifestation of the interests of each descendant. their main concern is to maintain cohesion and family harmony, this depends on how the parents have embedded the values and culture of the family in the education of their children; and finally, the third generation (cousins): ownership and control are increasingly complex, and

this stage reveals family groups with heterogeneous goals and interests. Indeed, at this stage the family members are of different generations with incompatible visions about the management and the long-term strategy of the company.

### **2.1.2.2- Confusion of roles**

The main idea that emerges from the work on family businesses is the fact that family members who are part of the business, hold a dual role, being a family member on the one hand, and a member of the business on the other; which makes it difficult to meet the needs and expectations of the family and the business (Gersick *et al.*, 1997; Memili *et al.*, 2015; Caputo, 2018). Thus, the coexistence of the family and the business leads to confusion in the identification of the priorities of the family member. If we take as an example, that the son takes over and holds an important position in the family business, he is under the obligation not only to meet the family expectations insofar as he has to keep the perpetuity of the business, but also to achieve the financial goals of the business (Jaskiewicz *et al.*, 2013; Kidwell, Kellermanns and Eddleston, 2012).

### **2.1.2.3- Succession issues**

Researchers emphasize that the skills of the successor are important to ensure a successful and effective succession (eg., El Houmaidi, 2007; Pham *et al.*, 2018, Gagné, M. *et al.*, 2021). He or she must acquire a set of assets, including knowledge in the business world (Duh and Letonja, 2013), an innovative spirit (Litz and Kleysen, 2001), the sense of decision making and human relations (Chrisman *et al.*, 1998), and most importantly, passion (Andersson *et al.*, 2002; Schlepphorst and Moog, 2014). The process of integrating the successor into the family business does not happen only when the successor becomes an adult, the first stage of knowledge in the business world is from childhood (Haldin-Herrgard, 2011; Varamäki *et al.*, 2003), the second stage is his formal academic education (Morris *et al.*, 1997; Sardeshmukh and Corbett, 2011), then comes the stage of work experience gained apart from the family business (Brockhaus, 2004; Sardeshmukh and Corbett, 2011), finally the knowledge and skills he can gain by joining the family business full-time.

While the successor must acquire a set of attributes in order to take over, the successor's relationship with other family members is important. Indeed, the successor must gain the trust not only of active family members but also of non-active members of the firm who may have more power to influence (eg., Yezza, H *et al.*, 2021; Lansberg and Astrachan, 1994; NAOURE, 2018). Chrisman *et al.* (1998), identified three variables to describe the successor's relationship with the family:

- Respect of active family members
- Trust of active family members
- Ability to get along with family members

The table 1 below presents a summary about the main contributions of the literature on conflicts in Family businesses.

**Table 1: Overview of studies on family business conflicts**

Sources of conflicts	Authors	Contributions
Generational conflict	Bertrand et al., 2008, Caputo, 2018 Eddleston and Kellermanns, 2007 Gersick et al., 1997 Jayantilal et al., 2016 Memili et al., 2015 Nazer and Llorca-Jaña, 2020 Ward, 1997	<ul style="list-style-type: none"><li>- Family members diverge in their financial and non-financial interests</li><li>- The more the family passes to higher generational stages, the more goals and interests are more heterogeneous.</li><li>- In the early founding stages, the emotional attachment to the company is stronger compared to the other generational stages.</li><li>- Conflicting interests are a main source of family conflict.</li></ul>
Role conflicts	Caputo, 2018 Gersick et al., 1997; Jaskiewicz et al., 2013 Kidwell, Kellermanns and Eddleston, 2012 Memili et al., 2015	<ul style="list-style-type: none"><li>- The family member has a double identity, he must not only meet the needs of the family but also take into consideration the expectations and goals of the company.</li><li>- This coexistence and confusion of roles is a source of tension and rivalry within the family business</li></ul>
Succession issues	Andersson et al., 2002; Brockhaus, 2004; Chrisman et al. (1998), Duh and Letonja, 2013 Haldin-Herrgard, 2011; Lansberg and Astrachan, 1994 Litz and Kleysen, 2001 Morris et al., 1997; Pham et al., 2018 Sardeshmukh and Corbett, 2011 Schlepphorst and Moog, 2014 Yezza, H et al., 2021 Varamäki et al., 2003	<ul style="list-style-type: none"><li>-The predecessor is responsible for training and preparing his descendant to take over.</li><li>-The successor must live up to the expectations of family members, otherwise several conflicts may emerge</li></ul>

**Source: By the author**

### **2.1.3- Appraisal theory and conflict in the family business field**

Family businesses are characterized by its emotional value to make decisions and identify strategy (e.g., Gomez-Mejia et al., 2007). The ultimate goal of each family is to preserve socio-emotional wealth and family harmony among family members (Le Breton-Miller et al., 2013). However, emotions play an important role in influencing thoughts and behaviors of family members (e.g., Morris et al., 2010; Rafaeli, 2013; Stanley, 2010). Therefore, it is important to explore the main



factors of emotions in the context of family business based on the contributions of appraisal theory (e.g., Lazarus, 1991; Ortony, 1988; Smith and Ellsworth, 1985).

In the context of family business, appraisal theory emphasizes the presence of positive and negative emotions. It is a mixed of congruent and incongruent emotions by a family member, he can experience a great ambivalence of emotions about one event that occur in a family business for example he can have positive emotion to take over the family business as a successor and have a negative emotion related to conflict with other family members refusing him as the new manager (Bee *et al.*, 2014).

The appraisal theory is a subset of dimensions that can lead to especial emotions among family members such as relevance, congruence, ego-involvement, responsibility, future expectations and control potential (Lerner and Keltner, 2000). Although the important contributions of appraisal theory in the family business context we retain in this article is its contribution of the relevance of emotions in the family business. Family members can have the capacity of resolving conflict by being aware of the influence of emotions on family harmony and the need to appeal a third party such as a mediator.

## **2.2- the process of mediation**

Enshrined in the context of the vast reforms of business law undertaken in Morocco<sup>5</sup> without providing a legal definition, mediation is thought of as an amicable method of conflict resolution during which an independent and impartial third party, trained in mediation, helps the parties to find a negotiated outcome to their dispute by favoring the emergence of a consensual solution, satisfactory for each of them" (Scheelbalg and Galton, 2003). On the other hand, recourse to mediation is fully provided for by article 86 of law 95-17 which indicates that "*The parties may, in order to prevent or settle a dispute, agree on the appointment of a mediator responsible for facilitating the conclusion of a settlement putting an end to the dispute*".

In the absence of an explicit definition of mediation, the aforementioned article nevertheless makes it possible to identify three important elements on which mediation is based. Thus, recourse to mediation suggests, first of all, the common will of the parties to undertake this step towards this alternative mode by designating, then, a mediator who is responsible for bringing together the interests of the parties in order to, finally, conclude an agreement, taking the form of a transaction, ending the dispute.

### **2.2.1- Parties consent to mediation**

The consent of the parties to resort to mediation is manifested through the conclusion of a mediation agreement which is defined as "*the contract by which the parties agree to appoint a*

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<sup>5</sup> Mediation has been expressly regulated by the Moroccan legislator for the first time in 2007 with the adoption of Dahir ° 1-07-169 of 19 kaada 1428 (30 November 2007) promulgating law ° 08-05 repealing and replacing the chapter VIII of title V of the code of civil procedure. Since then, mediation has been reformed under the recently adopted law 95-17.



*mediator responsible for facilitating the conclusion of a transaction to put an end to the dispute which has arisen or is to arise*"<sup>6</sup>.

The mediation agreement can be concluded:

- Before a dispute has arisen between the parties, it is in this case provided for in a contract or in another document which refers to it, for example within the statutes of the family business or shareholders' agreements. It is then called "mediation clause".
- After the dispute has arisen. In this case, family members can still agree, by mutual agreement, to have recourse to mediation in the absence of a clause to this effect by establishing a "mediation compromise".
- Undergoing legal proceedings. In this situation, the competent court certifies the agreement of the parties to the dispute to resort to mediation.

Consequently, it is noted that the family members of a family business have the freedom to resort to mediation at any time in order to resolve any dispute likely to oppose them.

In all cases, the mediation agreement must be, in the first place, established in writing, either by authentic deed or private deed, or by minutes drawn up before the court or before the appointed mediator, or by any other means agreed by the parties<sup>7</sup>. Secondly, the parties can only enter into a mediation agreement regarding the rights which they have free disposal. By way of illustration, the parties cannot compromise on a question of personal state<sup>8</sup>, public order, on other personal rights which are not the subject of commerce, and in general, everything that cannot be the subject of a commutative contract between Muslims<sup>9</sup>. However, it is possible to compromise on the pecuniary interest which results from a question of personal state or from an offence.

### **2.2.2- Designation and role of the mediator**

The mediator plays an important role in the resolution of conflicts between members of a family business insofar as he facilitates communication and assists the parties in seeking and reaching a solution to the dispute. In this regard, mediation can be entrusted to a natural or legal person<sup>10</sup>. It should be noted that the term "*legal person*" often refers to mediation institutions which are solely responsible for ensuring the organization and smooth running of the process in accordance with its mediation rules<sup>11</sup>. In all cases, mediation is effectively carried out by a natural person who may however be designated by the mediation institution chosen by the parties.

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<sup>6</sup> Article 87 paragraph 1 of law 95-17.

<sup>7</sup> Article 89 paragraph 1 of Law 95-17.

<sup>8</sup> For example, issues related to capacity, estates or wills, etc.,.

<sup>9</sup> Consequently, random contracts whose effects as to benefits and losses, either for all the parties, or for one or more of them, depend on an uncertain event cannot be the subject of mediation.

<sup>10</sup> Article 97 paragraph 1 Law 95-17.

<sup>11</sup> There are several mediation centers in Morocco, each with their own mediation rules: Moroccan Center for Enterprise of the French Chamber of Commerce and Industry of Morocco, Mizan Center, the CMAC mediation center, etc.,.

It is then inferred that the success of mediation depends on the competence and quality of the mediator. Once again, the legislator did not deem appropriate to provide any clarification as to the qualifications required by the mediator in order to accomplish his mission. Thus, the mediator is not subject to any diploma, skill or qualification requirement adapted to the nature of the dispute or to the practice of mediation.

On the other hand, the mediator must legally satisfy a number of ethical conditions. Thus, the mediator must not have been the subject, among other things, of a conviction for acts contrary to honor or to his integrity or to good morals, or of a disciplinary sanction having led to his dismissal of an official function, or deprivation of the capacity to exercise trade or of one of his civil rights<sup>12</sup>. In addition, the mediator must also accomplish his mission with complete *“independence, neutrality, integrity and impartiality”*<sup>13</sup>. Indeed, the smooth running of the process requires that the mediator not be influenced by circumstances or conflict of interests that would push him, unconsciously or not, to favor one party to the detriment of the other, particularly in a context of family disputes related to the family business.

By way of illustration, there is a conflict of interest when the mediator is involved, directly or indirectly, in the dispute that is the subject of the mediation or when he maintains a relationship or has a connection that may reasonably cast doubt on his independence or its impartiality, with one or more parties to the mediation, whether this relationship is past or present, personal or professional.

For this reason, the mediator, as soon as he is appointed, and if he is aware of the existence of any circumstance that could affect his impartiality, independence and neutrality, must notify the parties of the situation, and in this case, he can only accept his mission after their approval.

As soon as the mediator has accepted the mission entrusted to him, he notifies the parties by all available means<sup>14</sup>. The mediator can only renounce his mission with the agreement of the parties or when the mediation period has expired without the parties having reached a settlement.

Regarding the duration of the mediator's mission, it is initially set by the parties without exceeding a period of three (3) months from the date on which the mediator accepted his mission. However, it is possible for the parties to extend this period one or more times by agreement without the cumulative extension periods exceeding three (3) additional months<sup>15</sup>.

Consequently, the duration of the mediation cannot exceed six months in any case.

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<sup>12</sup> Article 97 paragraph 2 Law 95-17.

<sup>13</sup> Article 97 paragraph 5 Law 95-17.

<sup>14</sup> Article 97 paragraph 3 Law 95-17.

<sup>15</sup> Article 94 Law 95-17.

Since the role of the mediator is to facilitate the conclusion of a settlement to end the dispute, it is necessary to highlight the means at his disposal to achieve this end. The mediator can hear the parties and compare their points of view to enable them to find a solution to their conflict<sup>16</sup>.

The mediator must demonstrate a capacity for active listening and sufficient analysis to identify the points of contention that drive the conflict and assist the parties in the search for solutions. In this regard, some point out that *"through the stages of the process, the mediator will methodically and rigorously, by means of communication and negotiation techniques, lead the parties to renew the dialogue, to understand each other, to abandon their position in favor of their interests, to trust each other to imagine possible solutions and find the solution that meets their needs"* (Alassaire, 2017).

Since the mediation agreement is concluded between the parties to the dispute, it does not mean that it is not possible to hear other parties in the mediation process. Indeed, for the purposes of the mediation and subject to the agreement of the parties, the mediator may hear consenting third parties<sup>17</sup>. He may also, with the agreement of the parties, have recourse to any expertise likely to facilitate his role in the mediation when required.

The work carried out during mediation is confidential, and it is not allowed to rely on any element of proof revealed in the process or on the concessions made between the parties to the dispute before the courts or any other authority, unless the parties do agree otherwise<sup>18</sup>. Maintaining the confidentiality of the parties' concessions will preserve their respective rights in the event that a transaction fails and a court action is taken.

### **2.2.3- The outcome of the mediation process**

There are two possible scenarios for the outcome of mediation. First, if the mediation process is successful and the parties manage to agree on the solution to be given to the problem opposing them, the mediator draws up a draft transaction in the form of a document containing the facts of the dispute, the terms of its settlement, the agreement of the parties and the solutions that have been made to settle the dispute and submit it to the parties. In this situation, the transaction document is signed by the mediator and the parties and delivered to them without it being possible for one of the parties to question the transaction.

Otherwise, when the parties do not reach a settlement for any reason whatsoever, the mediator delivers to the parties the non-transaction document bearing his signature<sup>19</sup>. In this situation, the mediation agreement is considered to be exhausted and the parties are free to resort to state justice to settle the dispute opposing them.

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<sup>16</sup> Article 98 paragraph 1 Law 95-17.

<sup>17</sup> Article 98 paragraph 2 Law 95-17.

<sup>18</sup> Article 95 Law 95-17.

<sup>19</sup> Article 99 Paragraph 3 Law 95-17.

### 3- Methods

The literature of this paper has been composed of two important subsections. The first was to identify the main sources of conflict in family businesses as well as the theories related to the study of relationships between family members. The second is in particular the study of the mediation process based on Moroccan law. The contributions of the literature review were then confirmed using an exploratory study with the mediators.

A qualitative exploratory approach was chosen to study the role of mediation in resolving conflicts among family members. Our goal is to understand more how mediators approach mediation in a Moroccan family business. A detailed analysis was necessary to explore the context and experiences. We adopted the exploratory method to confirm the contributions of the literature and, especially, to identify the main factors to consider when mediating in a Moroccan family business. It is a country with many characteristics in culture as the bounded relationship between family members.

As noted, we have relied on the law to explain mediation as an approach to conflict resolution in general, but an exploratory study interviewing mediators is required to get an idea of the key elements to take into consideration in the mediation of family businesses.

We opted for semi-structured interviews to explore the field (Roussel and Wacheux, 2005). A face-to-face conversation was used in a recorded verbal communication. This method allowed us to have rich and beneficial information using the freedom of expression granted to the interviewees. The main reasons justifying the choice of this method revolve around the affective side, the discussions being very little orientated, as well as the psychic and cognitive aspect which we were able to identify in our interviews.

A prior preparation was required to succeed our exploratory study, first of all the interviews was conducted using an interview guide (appendix), all the questions was based on the contributions of the literature ; then we identified the sample, date recording tool, etc.

In this study, we conducted semi-structured interviews with five mediators as we have reached the theoretical saturation (Glaser and Strauss, 1967), which is reached when the researcher begins to have identical results in different interviews. When there is saturation, the researcher can no longer conduct additional interviews, as this will not contribute much to the analysis (Birgach and Habba, 2022). In our case all mediators have presented the same main process to follow of mediation in a family business, which explain the reason for settling with five mediators. In addition, we chose to directly interview professional mediators in the field in order to increase the validity and reliability of our study.

However, all of our mediators practice their profession in Morocco and all of the responses are based on their real professional experiences, our mediators preferred to stay anonymous which explain the reason we have identified them in the section of results and discussions from mediator 1 to 5.

We have chosen the content analyses. This method has undergone a remarkable evolution over time. Several researchers have defined content analysis (eg., Bardin (2003, p13: )*"a set of communication analysis techniques aimed, through systematic and objective procedures for describing the content of messages, to obtain indicators (quantitative or not) allowing the inference of knowledge relating to the conditions of production/reception (inferred variables) of these messages"*.

Among the methods of content analysis, we have opted for illustration by verbatims, the study is illustrated as precisely as possible by quotations, or Verbatim, extracted from the corpus and which reflect not only the ideas / content categories from of the analysis, but also their formulation. Moreover, these illustrations make the analysis report more concrete. It is also, to a certain extent, an assurance provided as to the quality of the content analysis carried out. This method allowed us to take the words of the interviewees as they are since we want to present the mediation procedure in detail (Gavard-Perret et al.,2012). However, the use of a software in this case is not needed.

## **4- Results and discussion**

### **4.1- Mediation in family businesses**

As mentioned above, family business is characterized by emotional values among their members. When a conflict occurs in the family it can have destructive consequences on the business (Suess, 2014). So, the business depends widely on how family members deal with the resolution of conflicts among them. In this paper, we present the role of mediation as an alternative method of resolving conflicts in Moroccan family businesses.

There are no rules that must be followed unconditionally. The process of mediation is about considering the needs and personalities of family members and indeed the nature and level of the conflict. However, working with family businesses requires a good expertise. Mediators resolving conflicts among family members, have to be aware about the complexity of this kind of management unlike the non- family businesses where there are no emotional bonds among its members (Prince, 1990).

Our mediators have shown that conflicts in the family business are the hardest conflict to resolve because of the relationship among its members and the conflicts are most of the time intense and emerge after the succession process of the firm *"The most complex conflicts arise at the time of generational change over the control of the company, its direction, the maintenance of leadership and the application of succession"* Mediator5. Other mediators found that some conflict among family members results from the past in particular from childhood trauma *"sibling rivalries are mainly caused by Interest and financial frustration, Jealousy, Difference in strategic vision and many others related to human nature"* Mediator3.

However, we have presented in the literature review the main sources of conflicts that can occur among family members. It is important for the mediator to be aware about the complexity of this kind of management because he will deal with a family vision, a heritage and a family culture *“confusion and ambiguity are the main sources of rivalries, specifically at the level of unclear mission, vision, goals or roles, ambiguity also arises when the mixture of rationalities, namely family rationality, individual rationality and market rationality, emerges and the boundaries between these systems are not sufficiently defined”* Mediator 4. The mediator has to be aware that this kind of management is characterized by a high level of socio-emotional wealth (Gómez-Mejía and Herrero; 2022) to prioritize in the process of mediation *“Taking into account the strong predominance of the affective nature of the conflict which will have to be highlighted and purged if possible as a priority”* Mediator 2. This assertion joins the contributions of the appraisal theory about the existence of emotions among family members in a family firm (Lerner and Keltner, 2000).

Indeed, the mediation process have been set by the Moroccan law as presented in the first section of this paper, but family businesses requires some particularities in the way of mediating. Our Mediators have identified five stages of the mediation process to facilitate the conflict resolution among family members, the process is based on the study of Thomas Fiutak (2009).

Thomas Fiutak, mediator and professor at the University of Minnesota in the United States, streamlined the mediation process in the form of a wheel based on the work of Fisher and Ury. Fiutak's wheel distinguishes five phases in the mediation process:

- **Reception:** After designating the right mediator *“the mediator has to be independent, neutral, and attentive”* Mediator1.” Comes the reception's stage which presents the mediator of the parties and the counsel verification of responsibilities, as well as an introduction to the mediation by recalling the goals, the fundamental principles as well as the rules of the process which can be summed up as follows:
  - *Confidentiality, neutrality, impartiality, independence*
  - *Mutual respect, courtesy, listening, moderation, calm*
  - *Separate meetings, strength of agreement*
  - *Choice of calendar, duration of meetings, location*
  - *Possibility to interrupt the mediation at any time*
- **Issues identification:** Agreeing on the disagreement 'The what': In this stage, there is a presentation of the facts by each party and the history of the conflict by each party as well as the identification of the problem by the mediator. During this phase, it is important to identify the main parties influencing the decision-making in the family. It helps the mediator to take

into consideration the direct and indirect influence that family members can have on each other's (prince,1990) *« in this stage, it is necessary to be able to allow the parties to discuss their entire conflict in order to be able to support them as best as possible. In such societies, institutionalizing the use of a third-party mediator, facilitator of decision-making is an opportunity to consider as a preventive solution of conflicts» Mediator 4.*

- **Mutual recognition 'The why':** In this stage, the mediator seeks to express the emotions, needs and expectations of each family member to eventually lead to gradually leaving fixed positions towards the search for common interests. The mediator will have to enter the key words mentioned by the parties in favor of possible concessions *«the goal here is to reduce the affective dimension inherent in the conflict itself and bringing the family members closer to a solution resulting from the proposals that emerge from discussion, listening and understanding of the point of view of each other» Mediator 1.*
- **'The how':** In this stage, it is a question of bringing together the interests of all family members by offering them the ability to formulate each of the proposed solutions to the conflict. The mediator lets the parties dictate the level of the exchanges and notes all the proposals made by the parties without ruling out any solution. The mediator must also stimulate the creativity of the parties and pressing the family members to make some concessions for the common interest of the family businesses *«The personal solutions adopted by the family members must not harm the interest of the organization and the common heritage» Mediator 2.* The mediator here can use as tools: The tools of the mediator: Flipchart, brainstorming, active listening, individual meetings with each party, questioning and reformulation.
- **Choice of the solution and drafting of the agreement 'The finally how':** From the list drawn up by the mediator, the parties choose the solution they consider appropriate. it must then be transposed by the mediator in the form of a transaction on which the latter affixes his signature as well as those of the family members. Our mediators identified some examples of approaches allowing parties to make choices:
  - *“What are the leads that could be taken?”*
  - *“What could you offer the other that would meet their needs...And what will meet your needs?” What are your alternatives?”*
  - *“Do you agree with this solution and have you thought about the consequences it could have?”*
  - *“Since you don't wish to go any further, could we write down together the points on which you agree and on which you still disagree?”*



## Conclusion and prospects :

To sum up we resume in the following model (*Figure1*) the main results of our paper about mediation as a resolving method of conflicts in Moroccan family businesses. We present in the model in one hand, our main findings from the literature which presents the main sources of conflicts and mediation according to the Moroccan law. And in other hand, we present the results of our interviews with mediators to identify some specificities of mediation in the context of the family business.

First of all, when we talk about conflicts in the family business, it is important to identify what are those conflicts and what are its main sources. Several authors have studied the affective side and emotional wealth in this kind of management (eg., Marques *et al.*,2023) and confirmed that family cohesion is important for the success and the continuity of the family firm (Betinelli *et al.*,2021). Otherwise, when conflicts emerges it can have destructive effects on the business ( Suess,2016). According to the literature, we have identified three main sources of conflicts among family members: Generational conflict due to the differences of interests and goals (Mariotti *et al.*,2021), confusion of roles between personal and professional duties (Memili *et al.*,2015) and finally succession issues that occurs when someone has to take over after the founder (Matias *et al.*,2021).

After that, according to the Moroccan law and the results of our interviews we identified five main stages of the mediation process, the first stage is about the reception of the mediator and the parties, then it is about identifying the conflicts and the issues among family members, the third stage consists of recognizing the expectations, emotions and needs of the parties; the how stage presents all the suggestions made by family members to find a common solution which can be resume in the final stage as the choice of the solution and making an agreement.

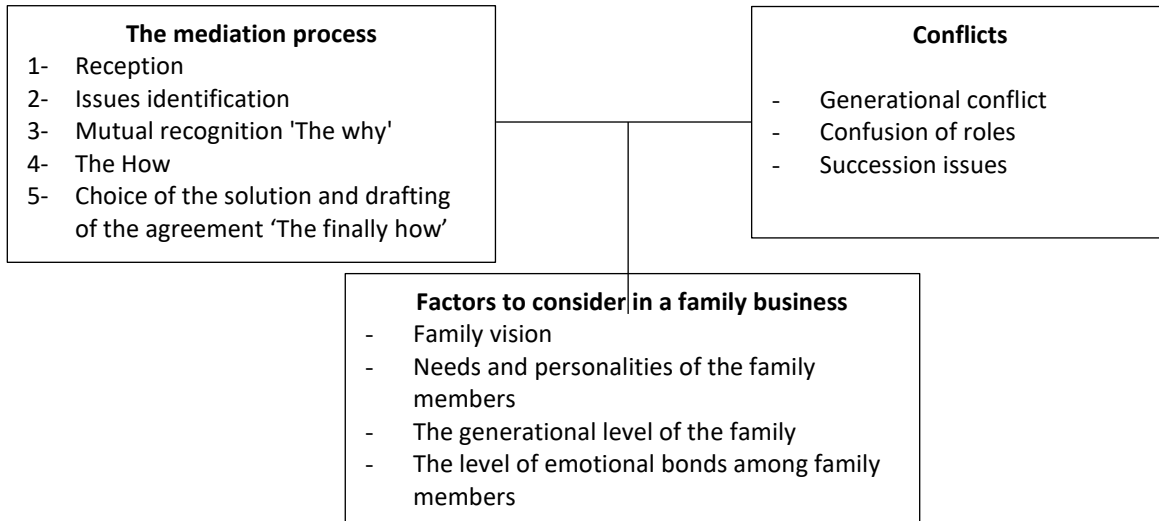
However, the particularity of our paper is to emphasize the mediation as a resolving method of conflicts and to be aware about the characteristics that each mediator must know before mediating in a family business. A mediator has to know the family vision of the family, their generational level, needs and personalities of each member and the level of the family harmony among them (Birgach and Habba, 2022). In addition to that, this paper presents a methodological contribution insofar as it allowed us to have rich and beneficial information using the freedom of expression granted to the interviewees and to help researchers with their future studies.

Family business is a large field of research, the factors we present are according to the literature review and our interviewees but there are other characteristics of the family business and especially the Moroccan family business that are characterized by its cultural value. We suggest to work as a perspective of research about the cultural factors of the Moroccan family businesses which has several impacts on the business functionality and if it is a latent variable to consider when mediating in Moroccan family Firms.

However, the unique focus on the experience of mediators in family firms may be viewed as a limitation of our study. Certainly, the study allowed a deep exploration of the main process of

mediation in family business in Morocco; but a case study of mediation in a Moroccan family business may complete the contributions of our paper, this will allow us to follow the mediators throughout the mediation process.

**Figure1: Model of the mediation process in family businesses**



**Source: By the author**

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