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ACHIEVING EFFECTIVE CONFLICT RESOLUTION THROUGH ALTERNATIVE DISPUTE RESOLUTION (ADR) MECHANISMS IN NIGERIA

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Abstract

Alternative Dispute Resolution (ADR) emerges as a vital instrument for conflict management, offering a range of benefits, including reduced costs, enhanced efficiency, and preserved relationships. In today's complex conflict landscape, traditional litigation frequently proves inadequate, failing to deliver timely and cost-effective solutions. It is against this backdrop that alternative system of resolving conflict came handy. A qualitative analysis was employed, focusing on case studies and journal articles detailing successful applications of Alternative Dispute Resolution (ADR). The study also used a comparative analysis of the outcomes of alternative dispute resolution (ADR) mechanisms with traditional litigation methods. This approach allows for an evaluation of the effectiveness and efficiency of ADR in resolving disputes, providing insights into its advantages and potential areas for improvement. This study utilised the Interest-Based-Relational Approach (IBRA) as its primary theoretical framework to examine the efficacy of ADR mechanisms, such as mediation, arbitration, conciliation, and negotiation, in resolving disputes in Nigeria by examining ADR's principles, processes, and outcomes. The paper found that ADR mechanism helped in reducing litigation backlog and associated costs, facilitated collaborative problem-solving and preserving relationships or reputation among others. ADR mechanisms provided enhanced flexibility and efficiency in dispute management, significantly reducing the time and costs associated with traditional litigation. The paper suggests that to improve ADR in Nigeria, there must be a standardized ADR policy developed and communicated to ADR practitioners, continuous professional development in ADR must be encouraged, and technological integration by leveraging digital platforms for online dispute resolution and virtual sessions for ADR is further advocated. Finally, there must be a regular review of the legal framework for the practice of ADR to be in tandem with changing realities. By implementing these recommendations, the potentials of ADR in resolving conflict will be achieved.

Keywords: Alternative dispute resolution (adr), conflict, conflict management, dispute, dispute resolution, judicial remedy.

Introduction

Conflict is an inherent and unavoidable aspect of human society, arising inevitably among individuals and groups. Effective management of conflict is crucial. Throughout history, stories and experiences have shown that alternative means of dispute resolution have been employed, highlighting the importance of finding constructive ways to address and resolve conflicts. Among Native Americans, first Nations in Canada, and many other traditions, various alternatives and processes have been used from the earliest times to find peaceful solutions to various disputes (Byron, Powell, & Ross, 2012). In recent decades, various conflict resolution approaches have become widely accepted in both academic studies and practice, with official and legislative functions in many countries (Deutsch, Coleman & Marcus, 2006). They are becoming more important in managing, controlling, and resolving possible causes of conflict in international relations (Shamir, 2016). Therefore, to provide people with the chance to create a fair justice system that operates quickly and effectively, the legal system must keep spreading knowledge about alternative dispute resolution (ADR) procedures to complement the official justice system at all levels (Welsh, 2001). Undoubtedly, ADR is an effective method of resolving disputes, which is less expensive and more expeditious than formal litigation.

ADR is not novel to Nigeria but deeply rooted in our culture. Its processes were in practice in Africa even before the colonial era. Our traditional societies settled disputes by referring them to the elders and other respected members of the society (Ali, 1986). The pre-colonial Nigeria era was composed of communities, settlements, families, villages and, most especially, ancient kingdoms and empires. These kingdoms and communities were not without conflicts. Rather, their disputes and challenges were adequately settled without litigation. In most cases, the disputes were referred to elders or other bodies set up for that purpose. This explains why Ali (1986) maintained that:

> Public participation and mediation are not alien to Nigeria. Empirical evidence has clearly shown that a thorough understanding of local knowledge systems, institutions and social organizations is a prerequisite for supporting existing sustainable practices and enhancing social and technological change. Negotiation and mediation have been integral parts of the traditional African decision-making process. Traditionally, the elders play special roles such as managing public affairs, keeping the peace, serving as judges and looking after community welfare.

Nigeria witnessed the establishment of English-style courts for the resolution of disputes following British colonization. Despite the establishment of these courts, the conventional methods of resolving disputes were not abandoned; rather, they coexisted with the court's adjudicative procedures. Even though local conflict resolution procedures are only acknowledged by the courts in civil matters, disputes are still resolved outside of the courts today (Nwazi, 2017). The ADR process in the administration of justice in Nigeria is geared towards addressing the challenges associated with court litigation. There is a growing trend to formalise and popularise the use of this mechanism as a viable alternative to litigation. Recourse to this form of mechanism in view of the harsh economy and political conditions of the citizenry in the country will enhance people's access to justice (Nwazi, 2017).

Methodology

A qualitative analysis was utilized. This entails analysis of case studies from journals of successful ADR applications; identifying key themes, benefits and challenges of ADR in conflict management.

Equally utilised is the comparison of outcomes of ADR mechanisms with traditional litigation methods. That is examination of costs, effectiveness, and time efficiency as satisfaction levels of ADR versus litigation.

Conceptual Clarification

Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution (ADR), sometimes referred to as "Appropriate Dispute Resolution," encompasses various non-confrontational dispute resolution techniques (Ajigboye, 2014). ADR ranges from direct negotiations between disputing parties to formal processes such as arbitration and adjudication, where an external party imposes a resolution (Ajigboye, 2014). It provides a more cost-effective and expeditious alternative to litigation, emphasizing flexibility and mutual agreement (Crowfoot & Wondolleck, 1990; Nwazi, 2017).

Crowfoot and Wondolleck (1990) highlight three fundamental characteristics of ADR in environmental dispute resolution:

1. Voluntary participation of disputing parties.
2. Direct, face-to-face group interactions.
3. Consensus or mutual agreement on contentious issues.

ADR has significantly influenced dispute resolution practices, particularly in South Africa, where it has challenged the notion that adversarial litigation is the only viable means of resolving conflicts (Van der Walt, 2016). ADR methods, including mediation, arbitration, and negotiation, offer an efficient, cost-effective approach that preserves relationships and reduces court caseloads (Stipanowich, 2010; Craver, 2012; Nicolson, 2015). This shift has led to increased acceptance of ADR among legal practitioners, businesses, and individuals (Blaine & Kahan, 2016).

Conflict

Conflict arises when one party perceives that its interests are being opposed or negatively affected by another (Thomas, 1992). It often involves a struggle for resources, recognition, or power at the expense of the other party (Iroye, 2021). While traditionally viewed as a negative occurrence, Simmel (1955) argues that conflict plays a functional role in group dynamics, fostering balance and social vitality. Similarly, Zartman (2007) emphasizes that conflict is an inevitable aspect of human interaction, with its impact—whether functional or dysfunctional—depending on how it is managed and resolved.

Conflict Management

Conflict management involves strategies to minimize the negative consequences of conflicts while enhancing their positive aspects (Otite & Albert, 1999). It encompasses efforts to control disputes before, during, and after they occur to maintain stability. Scholars view conflict management as a process that seeks to prevent escalation and facilitate resolution in a constructive manner (Burton, 1987). For this study, conflict management is understood as a proactive approach to controlling and resolving conflicts while ensuring a stable and cooperative environment.

Theoretical Framework

For the purpose of addressing this subject matter, relevant theories on Alternative Dispute Resolution (ADR) are analyzed. Among these theories that are relevant are:

- Pluralistic Theory
- The Authoritarian conflict resolution theory
- Interest-Based-Relational Approach (IBRA)

Pluralistic Theory (processual pluralism) of Conflict Resolution:

The construct of pluralistic theory in conflict resolution is primarily attributed to Christopher Moore. He has significantly contributed to the understanding and application of pluralistic approaches, emphasizing the need for flexibility and context sensitivity in resolving conflicts.

Pluralistic Theory, or processual pluralism, suggests that conflict resolution should be adaptable to the unique contexts of disputes, allowing for the integration of diverse methods and perspectives (Moore, 2014). It emphasizes the use of multiple ADR techniques tailored to the specific nature of the conflict. Practitioners may employ mediation, arbitration, negotiation, conciliation, or collaborative law, depending on the context and the parties involved (Moore, 2005). This theory has profound implications for Alternative Dispute Resolution (ADR) practices, enhancing their effectiveness and responsiveness.

A fundamental aspect of pluralistic theory is the acknowledgment of diverse viewpoints and interests among conflicting parties. Recognizing that each party may have different perspectives is essential for achieving a comprehensive understanding of the conflict (Fisher et al., 2011).

Alternative dispute resolution processes are distinct and separate, having their unique form, functions and method of transforming a dispute. Outwardly, this represents a diverse collection of disjunctive processes. Yet, an introspective analysis shows that there's an innate centrality that originates in core principles that bind individual processes to each other and a unified body of theory. These foundational principles of ADR are replicated in each of its processes. In these terms, ADR is therefore conceptualised as a pluralistic system of dispute resolution that consists of an autonomous and individual system of process that conforms to a central body of general theory and consensual principles.

ADR is a system of procedural pluralism. It consists of multiple systems of process that share a single theoretical system of processual principles. Each process is independent but not autonomous because, ultimately, each is dependent on a unifying theory and principle. Each process is distinct in its form and specializes in its function, but all share common consensual principles in a central structure of processual theory. Some of the salient principles of this theory are disputant consensus, autonomy, participation, flexibility and decision-making through problem-solving. The theory of ADR is thus based on the concept of consensual pluralism.

The Authoritarian conflict resolution theory is equally likened to the unitary procedural system of conflict resolutions; its applicability is better suited to formal legal proceedings or court systems and is ancient.

However, for the purpose of this paper, the Interest-Based-Relational Approach (IBRA) is the appropriate theory utilised. This is because IBRA prioritizes collaboration, addresses the underlying interests of all parties, and builds long-lasting relationships, resulting in more sustainable and inclusive solutions to conflicts.

Interest-Based-Relational Approach (IBRA) is a model of resolving conflict that focuses on finding a win-win solution that meets the underlying needs and interests of all parties rather than their positions or demands. Fisher and Ury (1991) introduced key principles that form the foundation of IBRA, emphasizing the importance of focusing on interests rather than positions in negotiations.

According to Fisher and Ury (1991), the focus of this theory is in the areas of:

- Interest and not the positions of the parties
- Separates people from the problems
- Emphasises creative options and mutual gains and
- It encourages collaboration and communication

This approach to negotiation relies heavily on identifying the interest of the parties which is the underlying justification for a position. A position is an action that the parties would like to take, but the interest is the reason for that position. This approach allows for mutually beneficial outcomes while employing the strategy of courtesy, non-confrontational and focusing on issues rather than individuals. IBRA is the theoretical framework for this work.

IBRA can be effectively applied in Nigeria's Alternative Dispute Resolution (ADR) mechanisms during complex conflicts involving multiple stakeholders, particularly when preserving relationships is crucial and in early intervention to prevent escalation, as it facilitates open communication and helps identify underlying interests (Fisher & Ury, 2011; Boulle, 2011). By employing structured dialogue and culturally sensitive practices, IBRA promotes collaborative solution development, enhancing the likelihood of achieving mutually beneficial outcomes (Oluoch, 2016).

Literature Review

The Historical Development of Alternative Dispute Resolution (ADR)

The concept and practice of Alternative Dispute Resolution (ADR) have existed since ancient times. Hon. Justice Oke (2017) succinctly captured this historical trajectory, noting that major ancient texts, including the Bible (Matthew 5:9-11), reference the resolution of disputes through ADR mechanisms. Classical Greek literature also provides evidence of early mediation and arbitration. For example, *The Iliad* describes a case in which a murderer negotiates with the victim's family, making a public offer for compensation. While some negotiation occurs, the final decision is rendered by a respected elder, whose judgment is accepted by all. This process reflects key principles of restorative justice and arbitration (Oke, 2017).

Similarly, ADR practices were evident in ancient Mesopotamian society over 4,000 years ago. Historical records indicate that a Sumerian ruler prevented war through mediation by facilitating an agreement in a land dispute. Further evidence suggests that conciliation played a crucial role in Mesopotamian society, particularly in commercial disputes. By the first century BCE, a merchant organization promoted the resolution of trade conflicts outside the court system. The process involved direct confrontation between the creditor and debtor in the presence of a third-party referee, with court intervention only if the initial resolution attempt failed (Oke, 2017).

The development of ADR in the Western world can be traced to ancient Greece. As Athenian courts became overcrowded, the city-state introduced the role of public arbitrators around 400 BCE. The arbitration process was structured and formal, with arbitrators selected by lottery. Their primary responsibility was to attempt resolution through mediation; if unsuccessful, they

proceeded with a formal arbitration process, including witness testimonies and written evidence. This method closely resembles modern Med-Arb (Oke, 2017).

Traditional African Approaches to Dispute Resolution

African societies have long relied on indigenous mechanisms for dispute resolution. The Bushmen of the Kalahari Desert in Namibia and Botswana, for instance, have developed sophisticated, non-adversarial systems that emphasize consensus-building. In cases of serious disputes, the entire community—including both men and women—convenes for extensive discussions. Each individual has the opportunity to voice their concerns, and the dialogue continues over multiple days until consensus is reached. This process integrates negotiation, mediation, and consensus-building (Silberbauer, 1981; Lee, 1979).

According to the United Nations Permanent Forum on Indigenous Issues (2007), indigenous dispute resolution mechanisms share common principles:

1. Inclusivity – All stakeholders actively participate in decision-making.
2. Open Communication – Free and unrestricted dialogue fosters understanding and resolution.
3. Consensus-Building – Disputes are resolved collaboratively.
4. Community Involvement – The collective takes responsibility for dispute resolution.

Similar traditional dispute resolution approaches can be found across Africa. Examples include:

- Ghana's "Palaver" System – A process centered on dialogue and reconciliation.
- South Africa's "Ubuntu" Philosophy – A dispute resolution approach emphasizing communal harmony.
- Kenya's "Baraza" Tradition – A mediation system led by elders.

These indigenous models provide valuable insights for contemporary ADR practices by reinforcing the significance of:

1. Community Engagement
2. Cultural Sensitivity
3. Inclusive Decision-Making
4. Non-Adversarial Approaches

By examining and integrating traditional African dispute resolution methods, researchers and practitioners can develop more effective, culturally relevant, and sustainable conflict resolution strategies (Silberbauer, 1981; United Nations Permanent Forum on Indigenous Issues, 2007).

Place of ADR in the Nigeria Society

In Nigeria, the traditional customary system made use of ADR (Okafor, 2017). This is evidenced by practices from major tribes in Nigeria, i.e., the Yoruba, Igbo, and Hausa. In a study conducted in Ibadan, Hérault (2016) described the presence and use of ADR at various levels of disputes. These are namely: Dispute Resolution at the individual family level handled by the Baale (household head); next is the Dispute Resolution by the Mogaji and Baale (ward chief), who attend to cases that cannot be handled at the family level; and conflict resolution by the highest traditional institution of the land often consisting of the king and the chiefs.

According to Nzimiro et al. (2015), the Igbo has a valuable and respected traditional judicial process that utilizes ADR. The Obi, Eze and other traditional rulers sat over disputes with the view of settling them through mediation and other indigenous means of intervention. Also, disputes could be resolved at lineage, age grade, women's group, and cult and association levels. According to Gluckman et al. (1955), reconciliation is the hallmark of the traditional judicial system of the Igbo. Kinsmen in dispute are usually helped by mediators to resume and

maintain kinship solidarity. In some cases, Judges make the disputants take oaths promising the resumption of cordial relationships.

Awe has found among the Hausas, particularly those in the diaspora, that wherever they migrate, they would appoint for themselves a leader called Sarkin Hausawa (ruler of the Hausa people) who settles disputes among the immigrants using various means, including mediation and reconciliation. The Sarki has ward heads referred to as the Mai ungwa (owner of the ward). The Mai ungwa resolves conflicts at the ward level within the Sabongari where the immigrants settle. Conflicts that cannot be resolved at the ward level are referred to the Sarkin Hausawa's court. When resolving such conflicts, the Sarki is usually assisted by his chiefs and committee elders called Ubangari.

Also, customary arbitration, which arguably is a form of ADR, has long been a component of the Nigerian legal system before and beyond colonial times. Customary Arbitration refers to the voluntary Submission of the parties to the decision of the arbitrators, who are chiefs or elders of their Community. Affirming a long line of previous decisions, the Supreme Court in Nwoke v Okere (2000) held that customary arbitration constitutes estoppels per rem judicatum if the subject matter, Parties and cause of action are the same in the arbitration as in the court. In Okpurulvu v. Okpokam (2008), however, the Supreme Court rejected the peculiar African form of alternative dispute resolution in the juju method on the ground, inter alia, that its activities, method and procedure belongs to the realm of the unknown even though the effect may be real at the end. Additionally, the worst of it all is that a juju decision or judgment is not amenable to an appeal.

With the advent of colonization, however, emerged the introduction of the English legal system with its test theory which ensured that all customs were considered repugnant to nature. Justice, equity and good conscience were jettisoned. Notwithstanding, in modern times, the teeming number of cases, the diminishing satisfaction of the public in the justice system and the Wave of reform in several jurisdictions all indicate that the court system is overburdened and should not be the mono option for addressing grievances and obtaining redress for wrongs. This has given rise to a call for reform, which has prominently featured the institutionalization of ADR.

Considering the above literature on ADR and efforts made by different scholars to resolve conflict, it is obvious that gaps still exist in the administration of justice through ADR Accordingly, this research is expected to address these obvious gaps with the view of filling the same and bringing it in tandem to the contemporary system of conflict management and settlement.

Introduction of ADR in the Management of Conflict in Nigeria

The ADR mechanisms were introduced into the Nigerian Legal System in the quest for speedy dispensation of justice as court processes are bedeviled with inordinate delays, technicalities, and strict adherence to the rules of evidence and pre-trial preparations which are not only time-consuming and frustrating but also costly. While complex cases are preserved for the courts, other cases can be resolved through the ADR processes, thereby relieving the courts of the time that would have been spent on such cases (Akomolode, 2005; Ifedayo, 2005).

Today, ADR has become institutionalized and recognized as part of court systems throughout the world. Arbitration was the first ADR method to gain acceptance, as it mirrored the judicial system, with the arbitrator acting as the judge. As ADR has evolved, mediation has emerged as a favored alternative, gaining wide acceptance for its greater flexibility and reduced procedural complexity (Yona & Kumar, 2011). The U.S. Federal Civil Rights Act (1964) led to the formation of the CRS (Community Relations Service in the U.S. Department of Justice), which was mandated to help "communities and persons therein in resolving disputes,

disagreements or difficulties relating to discriminatory practices based on race, colour, or national origin, (Moore, 2014). "Mediators" were asked to assist in resolving disputes of any sort and not only to deal with issues of discrimination (Goldberg et al., 1992). The U.S. Federal Government funded Neighborhood Justice Centres (NJC), which provides free or low-cost mediation services. Throughout the United States and other countries, the courts became involved in mediation, following Professor Frank Sander's (Harvard University) vision of a courthouse that would become a dispute resolution Centre, a multi-door courthouse where each case would be referred to a process most appropriate to it. The NJCs became part of a city-based, court-based, or district attorneys-based alternative dispute resolution service (Klein & Connor, 1998).

In Nigeria, the Multi-door Courthouse system is operated on different platforms. The Multi-door Courthouse named the "Lagos Multi-door Courthouse 'LMDC'" commenced in Lagos was established on 11th June, 2002, with a public-private partnership arrangement between the Lagos State Judiciary, the United States Embassy (D & G Program) and the Negotiation and Conflict Management Group (NCMG), a non-profit private organization (Akinwunmi, 2014). This effort was, however, on 18th May 2007, backed up by state law as the Lagos State House of Assembly subsequently passed into law "the Lagos Multi door Courthouse Law. It is the first CC-ADR Centre in Africa.

Today, Federal agencies in the United States are obliged to use mediation in certain civil cases before going to court. Many states passed a law requiring mandatory mediation, and in the private sector, many large U.S. and multinational companies signed a mediation pledge, according to which they use mediation before going to court (Jaffe & Gallanter, 2015). Several countries are experiencing similar growth while continuing to develop new and creative ADR processes and applications. Canada, New Zealand, Australia and the United Kingdom have become pioneers in the field. The ADR movement has been gaining popularity and, as a movement that started as an answer to the needs of the judicial system, has generated interest in a variety of fields (such as education, society, environment, international and gender concerns (Ury et al., 1988).

In Nigeria, those engaged in ADR processes are trained and certified by the Institute of Chartered Mediators and Conciliators, which is a body established in 1999 for training persons aspiring to be professional negotiators, mediators, conciliators and peacebuilders across Nigeria (Greg, 2005, 1997). Craver (2012) enjoins parties to disputes, lawyers and non-lawyers alike, to seek amicable settlement of their disputes rather than litigation. Though one may not completely avoid the courts, before you sue, try a settlement which saves the relationship. The writer contended that ADR is not intended to oust the jurisdiction of the courts as misconceived by the early Judges but to supplement it. In some cases, the courts, on their own, refer disputes to arbitrators for consideration, though these disputes are subject to the agreement of the parties. In his own words: "In the Arbitrations and Conciliation Act, the courts have different functions assigned to them by the Act. In fact, arbitration practice will be a mere fruitless and hopeless exercise without the courts; this is because the arbitral tribunal has limited legal forces to effect certain duties implicit in every arbitration practice. Section 3 of the Act gives the courts the right to revoke the arbitration agreement, and sections 4 and 5 of the Act confer on the court the discretion to stay proceedings in court for the reason of the arbitration agreement. The principle was earlier stated in *Lee v Showman's Guild of Great Britain* (1959), where Lord Denning warned that parties cannot contract to oust the ordinary courts from their jurisdiction. In his words:

> They cannot prevent its decision from being examined by the courts. If parties should seek by agreement to take the law out of the hands of the courts and put

> it in the hands of a private tribunal, without recourse at all to the courts in case of error, then the agreement is, to that extent, contrary to public policy and void.

For example, in the English case of *Cable and Wireless plc v IBM United Kingdom Ltd* (2002), the parties submitted their case to ADR but returned to the court after ADR proceedings failed. Undoubtedly, the impact and effectiveness of the ADR will be essential to the Niger Delta Region of Nigeria, where the cumbersome and unending process of litigation has led the victims of oil spillage in the host communities to take laws into their hands by resorting to oil bunkering, violence and other illegal means of redressing their grievances.

Forms of Alternative Dispute Resolution (ADR)

ADR systems may be generally categorized as arbitration, conciliation, mediation and negotiation systems.

1. **Mediation**

This is a consensual process in which disputing parties engage the assistance of an impartial third-party mediator, who helps them to try to arrive at an agreed position on the resolution of the dispute. Mediation is a type of ADR method, of which, the purpose is to facilitate negotiations between the disputants to enable them resolve their disputes. It is a voluntary, non-binding private dispute resolution process in which a neutral person helps the parties reach an amicable settlement of their disputes. The duty of the mediator is not to determine rights and wrongs but to control the process, leaving the outcome to the parties since he cannot impose any decision on the parties ((Bercovitch et al., 1991). Moore (2014), while distinguishing the role of the mediator from that of the arbitrator, maintained that:

> While the latter decides the dispute for the parties, the role of the skilled neutral mediator is to act as a catalyst by helping the parties identify and crystallise each side's underlying interests and concerns, carrying subtle messages and information between the parties, exploring bases for agreement and develop co-operative and problem- solving approach. The common denominator to all these efforts by the mediator is the enhancement of communication between the parties in conflict.

Legal rules may be relevant to mediation but not mandatory. It is just one of the factors to be considered in the process but more importance is more accorded to the subsisting relationship and interest of the parties. That is why mediation is suitably adopted in the resolution of conflicts of a sensitive and confidential nature where the disputants would wish to settle them in private rather than in public.

2. **Arbitration**

Parties present arguments and evidence to an independent third party, the arbitrator, who makes a determination. Arbitration is particularly useful when the subject matter is highly technical or where the parties seek greater confidentiality than in an open court. Arbitration may be voluntary, ordered by the court or required as part of the contract. Some ADR processes are similar to adjudication but are not binding; the non-binding of such processes means they are not arbitration. The arbitrator is either appointed by the parties or the court Christian (2006), of which the decision may be binding or non-binding (advisory). It binds the parties when they have agreed that the arbitrator's final decision is final. The Court of Appeal in Stabilini Visinoni Ltd v Mallinson and Partners Ltd (2014) 12 NWLR further explained arbitration as:

> A method of dispute resolution involves one or more neutral third parties who are agreed to by the disputing parties and whose decision is binding. In effect, arbitration is the resolution of a dispute between the parties by a person(s) other than a court of law. It is the reference of a dispute by parties thereto for settlement by a person or tribunal of their choice

rather than a court. The basis for the arbitration is the consent of the parties to submit or refer their disputes to arbitration.

As the parties to a dispute decide on their own to settle by arbitration, the law requires them to obey the rules, proceedings and awards of the arbitration panel for better or worse. Therefore, appeals do not lie against such decisions, and neither can a party withdraw from the arbitral process. In Igwego v Ezeugo (1992) 6 NWLR, the court held that when parties have agreed to be bound by the decision of the arbitrator as final, they cannot thereafter change from it if found unfavourable. Oguntade JCA, in his dissenting judgment in the case of Okpuruwu v Okpokam (1998) 4th Volume of the Nigerian Weekly Law Reports (NWLR), maintained that….if parties to a dispute voluntarily submit their dispute to a third party as arbitrator and agree to be bound by the decision of such arbitrator, and then the court must clothe such decision with the garb of estoppel per rem judicatam. However, parties may seek judicial relief if the arbitrator, in the course of the arbitral processes, exceeds the authority conferred on him or he was in breach of rules of natural justice or made an obvious mistake. The difference between litigation and arbitration is that in arbitration, the parties in the contractual agreement have already agreed to the procedure before the dispute arose, and the proceedings are also less formal than in a law court.

It is important to note that both arbitration and conciliation as a non-judicial system of conflict resolution are guided by the Arbitration and Conciliation Act chapter 18-LFN-2004. The Act, which is made up of 59 sections, extensively deals with all issues of arbitration and conciliation both in the local environment and those involving international commercial Arbitration and Conciliation

3. Conciliation

This is a lesser form of arbitration, and the process does not require the existence of any prior agreement. Any party to the dispute can request the other party to appoint a conciliator. One conciliator is usually appointed, though more than one is also allowed. Where there are multiple parties, they must act jointly (Mäntysaari, 2014). The parties may submit statements to the conciliator, intimating to him of the dispute and the unresolved issues at stake. Thereafter, each party sends a copy of the statement to the other. The conciliator can ask for further clarification either orally or in writing. The parties can also decide to submit suggestions for the settlement of the dispute to the conciliator. After examining the nature of the dispute and seeing the possibility of settlement, the conciliator can draw up the terms of settlement and send it to the parties for their acceptance. If the parties execute the settlement document, it shall be final and binding on them (Akeredolu, 2011). In Nigeria, conciliation is recognized by the Arbitration and Conciliation Act as a method of conflict resolution. Section 37 of the Act provides that the parties to any agreement may seek amicable settlement of any dispute about the agreement by conciliation. The process involves a neutral and disinterested person meeting with the disputants both separately and together and exploring how the dispute can be resolved. It involves an appointed councilor who does not intervene directly in the dispute; rather, he does it indirectly by exploring the available possible avenues for settlement, thereby allowing the parties to do the settlement themselves.

4. Negotiation

This is the most common and familiar form of ADR mechanism. It is a dialogue or a consensual discussion with a view to reaching a compromise without the aid of third parties. Negotiation has become an indispensable part of our daily lives as it happens in almost every transaction between two or more persons (Fisher et al., 2011). It is a means to an end and not an end in itself, the end being a mutually beneficial dispute settlement. Therefore, unlike in arbitration and mediation, the parties in negotiation are in full control of both the process and the outcome, either in person or by proxy (Fisher & Shapiro, 2005). Where decisions are reached through

this process, the parties are bound since they are architects of both the process and the solution. The principles that guide successful negotiations in other areas of our lives are also applicable to environmental disputes. The Environmental Safety Guidelines for Petroleum Industries in Nigeria 2002 encourage oil companies to negotiate compensation payable to the host communities in settlement of pollution-related cases before embarking on litigation. In any case, involving environmental damage, negotiation is the next stage after the assessment of the damage. In some cases, experts may be involved in ascertaining the quantum of damage and the concomitant compensation.

Strength of ADR in Conflict Management

When ADR is effectively managed, it comes with several advantages, which may include:

It saves money. The cost of filing a suit in court, seeking the services of a legal practitioner, obtaining evidence and processing such evidence, and calling witnesses may be enormous when compared to the cost of resolving disputes through the ADR methods (Stipanowich & Thomas, 2009).

It saves time. Under the traditional court system, deciding cases involve time-consuming procedures. The processes of obtaining evidence, presenting the evidence, getting and preparing witnesses, and the defence proceedings take time. This can lead to delaying justice, which goes to the aphorism that justice delayed is justice denied (Nwankwo, 2015). The parties in litigation do not have control over the proceedings, as a lot of factors can cause delays in the litigation process. In ADR, the parties involved in the dispute have control over the speed at which a resolution is reached, in contrast to cases decided in a court of law.

The issues resolved through the ADR techniques end up bringing satisfaction to the aggrieved parties, as the parties at the "end of the day" come to a common ground whereby each is happy with the outcome (Folger, 2010). Sometimes, in litigation, the aggrieved party (loser) looks for opportunities for further litigation through appeals in higher courts; issues of appeal Do not arise in ADR as each party reaches a mutually beneficial agreement that satisfies their position or aspirations (Moore, 2014).

It improves and sustains cordial relationships among parties. When disputes are resolved through any ADR mechanism, the parties are left happy, and they can continue to develop existing relationships. This is not so in litigation, where most often, after the litigation, parties develop hatred, bitterness, and rancour towards each other as a result of the win-lose situation.

ADR maintains the privacy of the parties as against litigation where cases are required to be heard in public except where the law provides otherwise. Thus, the processes of ADR are generally confidential. However, the exact scope of confidentiality will depend upon the available statutes and the disputants to use ADR.

ADR provides platforms for informal and less confrontational means of dispute resolution. It avoids placing the label ‘’wicked enemy’’ on the other party but rather creates a friendly atmosphere for dispute resolution.

ADR increases flexibility and control. It gives the parties greater flexibility and control in the procedures followed. In ADR, the parties choose the process to use, the law to be followed, whether it is binding or non-binding, when and where it will take place, the choice of the neutral, and the extent of their participation. This is not so in litigation as the law to be followed, the venue, the umpire (i.e. judges/magistrate), etc., have been fixed for the parties by law.

Weaknesses of ADR in Conflict Management

Despite the enormous benefits of alternative dispute resolution and its universal acceptance, it still has some limitations. Some of the limitations or disadvantages are:

Inability to decide certain cases, especially criminal. ADR does not settle cases like murder, armed robbery, rape, Dissolution of a statutory marriage, election petition cases, winding up of a registered company in the event of insolvency or bankruptcy, etc. Although these cases can be compromised in court, they are still subject to litigation, not ADR (Owen, 2013).

Note that ADR is not new to African and Nigerian tribes. Thus, before the advent of Europeans, Nigerian tribes practised ADR (Akinyemi, 2016). For instance, in traditional Yoruba and Igbo villages and towns, ADR is commonly employed to resolve cases among communities, families, or groups. The aggrieved individual or parties consult the principal head of the family or the community leader, heads or even king where applicable. The community head or head of the family or the Umunna, in turn, invites the other party or parties to a meeting at a set date and place, as well as when and where the parties will meet in order to resolve the issues. This method of dispute resolution has resolved major disputes and brokered peace where war, protest or fracas would have resulted. Thus, the ADR mechanism helps to promote dialogue and preserves relationships where possible.

Findings

i. Alternative Dispute resolution and other non-judicial processes of conflict Resolution constitute a major instrument of justice delivery in Nigeria, but its mission is not to usurp the jurisdiction of the courts.
ii. The advantages of ADR outweigh its shortcomings, but these inherent advantages of this all-important process of conflict resolution and management are not well harnessed.
iii. There's a dearth of information and education regarding ADR processes in Nigeria.
iv. The ADR processes are not widely used to achieve sustainable development goals.

Conclusion

Litigation is perceived as neither inevitable nor superior as a dispute resolution process. Litigation may be required to initiate proceedings in court, but other dispute resolution processes may be employed to resolve a whole or a part of the dispute. In recent times, many jurisdictions have seen an expansion in the frequency and variety of ADR processes within Administrative tribunals and courts. No doubt, it's hoped that more matters will be resolved at an earlier point in time, with less expense to litigants and the court system. Notwithstanding the laudable benefits of ADR, its introduction and application are not intended to usurp the jurisdiction of the court.

Recommendations

i. There's a need for adequate education on the ADR processes and more personnel to be specially trained by specialized Government bodies to become experts in alternative dispute resolutions.
ii. There's a need for the establishment of a multi-door court system in all the states in Nigeria as a means of harmonizing the activities of ADR in the country.
iii. Efforts should be made by the Government to make ADR a part of sustainable development goals and to be used in resolving conflict both in family affairs, civil matters and even in criminal matters as we have seen in the collective Bargaining process.

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