



Adopting Alternative Dispute Resolution (Adr) Mechanisms in the Settlement of Disputes between States and Non-State Actors in Nigeria

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Abstract

Review Article

Alternative Dispute Resolution (ADR) refers to the set of methods or mechanisms for resolving disputes outside litigation for the peaceful co-existence of states and non-state actors as it is capable of building public trust in state institutions, reducing social conflict, and creating a more peaceful society. ADR aims to provide a more efficient, cost effective, and less adversarial approach to conflict resolution including those between states and non-state actors. State actors refer to governments at different tiers and their agencies, and corporations where governments have investment interest while non-state actors refer to private individuals, businessmen, private companies, etc. The methodology that was adopted in this study is the doctrinal research method that focuses majorly, on the interpretation of legal rules, principles, and concepts. The study highlights the limitations of traditional litigation in addressing the complex and often sensitive nature of identified disputes involving states and non-state actors. ADR mechanisms such as mediation, conciliation, arbitration, and negotiation, etc. offer a promising alternative to the adversarial system of resolving disputes. This paper discusses the legal framework, benefits, and challenges of implementing ADR in Nigeria, with a focus on enhancing access to justice, promoting peaceful conflict resolution, and strengthening state-non-state actor relationships. It showcased some notable existing cases in some superior courts of records that ADR has been used to resolve, and some of the pending cases that ADR can be used to resolve. The paper underscores the potential of ADR in resolving disputes efficiently, reducing costs, and fostering collaborative relationships between states and non-state actors. Arising from the foregoing, the Research recommends amongst others the need for the National Assembling and the House of Assembly of various States of the Federation to enact/codify ADR-specific legislation to govern dispute resolution involving states and non-state actors while amending existing laws to incorporate specific ADR provisions that would make it mandatory for states and non-state actor's disputes to first go through ADR process, whether or not such provision was included in their memoranda of understanding and Agreements.

Keywords: Alternative, Disputes, Resolution, Mechanisms, Litigation, Adversarial, States, Non-States.

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Introduction

ADR typically denotes a wide range of dispute resolution processes and techniques that parties can use to settle disputes with the help of a third party. Joseph Nwazi notes that they are used for disagreeing parties who cannot come to an agreement short of litigation.¹ ADR, also known as External Dispute Resolution (EDR), is also increasingly being adopted as a tool to help settle disputes within the court system; such disputes could be normal and common commercial disputes between state actors which include government and its agencies or institutions at the local, state and federal governments, including civil and military organizations individuals, business organizations, multi-national concerns and agencies where government at different tiers have investment interest and non-state actors which include private individuals, businessmen, companies, communities, etc.

Disputes between states and non-state actors in Nigeria have become increasingly prevalent, often resulting in protracted litigation, social unrest, and economic instability.² The traditional litigation approach has proven inadequate in resolving these commercial disputes and other complex ones that frequently involve sensitive issues of public interest, human rights, and community relations. The need for effective, efficient, and sustainable dispute resolution mechanisms has become imperative. Alternative Dispute Resolution (ADR) mechanisms, including mediation, arbitration, and negotiation, offer a promising alternative to traditional litigation as it has gained recognition globally as a viable means of resolving disputes in a manner that promotes mutual understanding, respect, and cooperation. However, in the words of Olufunmilayo Akintayo, Nigeria's adoption of ADR mechanisms in state-non-state actor disputes has been slow and

fragmented without the necessary awareness within the actors.³ This paper, therefore, discusses the potentials of ADR mechanisms in resolving disputes between states and non-state actors in Nigeria with a view to strengthening the justice dispensing administration system and process, and upholding the win-win characteristic which is one of the hallmarks of the ADR and its mechanisms.

Conceptual Clarifications

- i. Alternative Dispute Resolution (ADR): Refers to any mechanism or set of mechanisms for resolving disputes and conflicts without navigating the full process of litigation.
- ii. State Actors: include the three tiers of government and their agencies or institutions at the local, state and federal levels, including civil and military organizations individuals, business organizations, multi-national concerns and agencies where government at different tiers have investment interest such as Shell Petroleum Limited, Chevron Nigeria Limited, Mobil Unlimited, NNPC and its subsidiaries, etc.
- iii. Non State Actors: include private individuals, businessmen, companies and other multi-nationals where government does not have investment interest, communities, etc.

The most popular ADR mechanisms are Mediation, Arbitration, Conciliation, Negotiation, Med-Arbitration, and Transaction. According to Babatunde Oyewo, all ADR methods have common characteristics – i.e., enabling the parties to find admissible solutions to their conflicts outside of traditional legal/court proceedings, but are governed

¹Joseph Nwazi, "Assessing the Efficacy of Alternative Dispute Resolution (ADR) in the Settlement of Environmental Disputes in the Niger-Delta Region of Nigeria" (2017) 9(3) Journal of Law and Conflict Resolution, 26.

²Patrick Ogbiti; "Reasons for the Increasing Acceptability of Alternative Dispute Resolution Mechanism (ADR) in

Nigeria" presented at a seminar themed "Construction Arbitration for quality Surveyors & other Professionals" - June 2015, p.4 (2004) E. W. CA 576

³O. Akintayo, Alternative Dispute Resolution in Nigeria: Law, Practice and Procedure (Lagos: Malthouse Press, 2020).

by different rules.⁴ For instance, in negotiation there is no third party who intervenes to help the parties reach an agreement, unlike in mediation and conciliation, where the purpose of the third party is to promote an amicable agreement between the parties. In arbitration, the third party (an Arbitrator or several Arbitrators) will play an important role as it will render an arbitration award that will be binding on the parties. In comparison, in conciliation and mediation, the third party does not impose any binding decision.

ADR is a broad range of mechanisms and processes designed to supplement the traditional courts litigations by providing more effective and faster resolution process. It is a procedure for the settlement of disputes by means other than confrontational and relationship destroying litigation. (Daniel Agaba).⁵ ADR is a term generally used to refer to informal dispute resolution processes in which the parties meet with a professional third party who helps them resolve their dispute in a way that is less formal and often more consensual than is done in the courts. While the most common forms of ADR are mediation and arbitration, there are many other forms: conciliation, early neutral facilitators, med-arb, judicial settlement conferences, fact-finding, ombudsmen, special masters, etc. Though often voluntary, ADR is sometimes mandated by the courts, which require that disputants try mediation or other forms of pre-trial conferences before they take their case to court.

The ADR mechanism was introduced into the Nigerian Legal System in the quest for speedy dispensation of justice. Its processes are not only less formal but also less expensive and more expeditious than the court processes. By this method, a mere apology is enough to bring about settlement.⁶ Court processes are bedeviled with inordinate delays,

technicalities, strict adherence to the rules of evidence and pre-trial preparations which are not only time consuming and frustrating but also costly. Majority of the cases in courts can be resolved through the ADR processes, thereby relieving the courts the time that would have been spent on such cases (Johnson Akomolode).⁷

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 the purpose of training persons aspiring to be professional negotiators, mediators, conciliators and peace builders across Nigeria. Parties to disputes, lawyers and non-lawyers alike and other stake holders to seek amicable settlement of their disputes rather than litigation. Though, one may not completely avoid the courts, but before you sue, try settlement which saves relationship. He contended that ADR is not intended to oust the jurisdiction of the courts.⁸

Institutional and Legal Framework for ADR in Nigeria

ADR has gained significant recognition in Nigeria as an effective means of resolving disputes outside the traditional litigation process. The Institutional and legal framework of ADR in Nigeria provides a solid foundation for its growth and development.

Nigeria's Institutional framework for ADR comprises various organizations and bodies that promote and facilitate ADR mechanisms. The National Judicial Institute (NJI) plays a pivotal role in providing training and education on ADR for judges and legal practitioners.⁹ The Nigerian Bar Association (NBA) also promotes ADR through its Alternative Dispute Resolution Committee. The

⁴Babatunde Oyewo, *Conflict Resolution in Nigeria: An Examination of Alternative Dispute Resolution Mechanisms* (Ibadan: Spectrum Books, 2019).

⁵Daniel Agaba, *Dispute Resolution in Nigeria: A Critical Examination of Alternative Dispute Resolution* (Abuja: Lawgic Publishers, 2018).

⁶ibid

⁷Johnson Akomolode, "Alternative Dispute Resolution in Nigeria" *Nigerian Journal of Contemporary Law* (2005) 123 at 127.

⁸ibid

⁹National Judicial Institute, "Training Manual on Alternative Dispute Resolution" (2015) 2.

Chartered Institute of Arbitrators (CIArb) Nigeria offers training and certification in arbitration, while the Mediation and Conciliation Centre (MCC) provides mediation services. The Multi-Door Courthouse (MDC) integrates ADR into the court system, offering a range of dispute resolution mechanisms.¹⁰

Nigeria's legal framework governing ADR is rooted in various legislation and policies. The Constitution¹¹ recognizes ADR in Section 6(6). The Arbitration and Conciliation Act (ACA) 1990¹² provides the primary legislation governing arbitration and conciliation. However, ACA was repealed and replaced by the Arbitration and Mediation Act 2023 (AMA 2023) following presidential assent on 26th May 2023. The New Act, which is based on the revised UNCITRAL Model Law adopted in 2006 and the result of years of reform effort, significantly improves the legislative framework for domestic and international arbitration in Nigeria, strengthening its position as a leading arbitration destination in Africa.¹³ Special provisions in State laws, such as the Lagos State Arbitration Law

2009 and the Rivers State Multi-Door Courthouse Law 2010, also establish ADR institutions and frameworks. The High Court of Lagos State (Civil Procedure) Rules 2019¹⁴, the Edo State High Court (Civil Procedure) Rules 2018,¹⁵ and the High Court

(Civil Procedure) Rules of various States in Nigeria incorporate ADR provisions for the settlement of disputes at any stage while matters are ongoing in courts, and once settlement is reached, such settlements become consent judgment of courts that are binding between parties.

For instance, Section 19(d) of the Constitution¹⁶ states that part of Nigeria's foreign policy objective is respect for international law and treaty obligations as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication. Similarly, Nigeria has many statutes that provide for the application of arbitration or other ADR mechanisms, which include: the Matrimonial Causes Act¹⁷; Consumer Protection Council Act¹⁸, Environmental Impact Assessment (EIA) Act;¹⁹ Trade Disputes Act,²⁰ Petroleum Act,²¹ Nigerian Investment Promotion Commission Act,²² National Boundary Commission Act,²³ Administration of Justice Commission Act²⁴, Federal High Court Act²⁵, International Centre for settlement of Investment Disputes (Enforcement of Awards) Act²⁶, Mineral and Mining Act²⁷, National Office for Technology Acquisition and Promotion Act²⁸, and so many others.

Like other countries, Nigeria has subscribed to some international arbitration laws, which also form part of its legal framework for the application

¹⁰Adeyemi, I. (2017). "The Multi-Door Courthouse: A Panacea for Effective Dispute Resolution in Nigeria." *Journal of Dispute Resolution*, 2017, 10(1), 12-20.

¹¹The 1999 Constitution of the Federal Republic of Nigeria (as amended)

¹²Cap A18, LFN 2004

¹³Opeyemi L, Robert W. "Recent Arbitration Reforms in Nigeria." White & Case Online Blog. 15 June 2022. Accessed 17/03/2025. Available at: <https://www.whitecase.com/insight-alert/recent-arbitration-reforms-nigeria>.

¹⁴The High Court of Lagos State (Civil Procedure) Rules 2019

¹⁵The Edo State High Court (Civil Procedure) Rules 2018

¹⁶ibid

¹⁷Cap. M719 Laws of the Federation (2004)

¹⁸Cap. C2520 Laws of the Federation (2004)

¹⁹Cap. E12 Laws of the Federation (2004)

²⁰Cap. T8 Laws of the Federation (2024)

²¹Cap. P10 Section 11 Laws of the Federation (2004)

²²Cap N117, Section 26 Laws of the Federation (2004)

²³Cap. A18, Laws of the Federation (2004)

²⁴Cap. F12, Laws of the Federation (2004)

²⁵Cap. 120, Laws of the Federation (2004)

²⁶Cap. M12, Laws of the Federation (2004)

²⁷Cap. M6, Laws of the Federation (2004)

²⁸Cap. A1817 Laws of the Federation (2004)

of ADR. For instance, The United Nations Commission on International Trade Law (UNCITRAL Model Law of 1985) and UNCITRAL Arbitration Rules have been domesticated in Nigeria by virtue of the then ACA now Arbitration and Mediation Act (2023)²⁹ which is a federal and principal enactment on arbitration, applicable throughout Nigeria. The Act provides a unified legal framework for the fair and efficient settlement of commercial disputes by arbitration and conciliation; and makes applicable the Convention on the Recognition and Enforcement of Arbitral Awards (New York Convention) to any award made in Nigeria or in any contracting State arising out of international commercial arbitration. In fact, Part III of the ACA contains provisions relating to International Commercial Arbitration and Conciliation, for the enforcement of arbitral awards rendered elsewhere or in Nigeria.³⁰

The Laws and Rules of the various courts which include the Court of Appeal Mediation Programme and the Supreme Court ADR Centre also form part of the legal framework for ADR in Nigeria. Thus, Section 17 of the Federal High Court Act³¹ dealing on reconciliation in civil and criminal cases provides that in any proceedings in the Court, the Court may promote reconciliation among the parties thereto and encourage and facilitate the amicable settlement thereof. Order 25 of the High Court of Lagos State (Civil Procedure) Rules 2019, and those of the High Courts of other States of the Federation and the Federal Capital Territory introduced Pre-trial Conferences which are fashioned to enable the judge to give directions as to the future course of the action as appears best adapted to secure the just, expeditious and economic disposal of the matter and to promote

amicable settlement of the case or adoption of ADR.³²

Concept of Alternative Dispute Resolution in Nigeria Courts of Record

On 11th June 2004, the Chief Judge of Lagos State issued Practice Direction for the functioning of the Multi-Door Courthouse and therein emphasised that the court must further its overriding objective by actively managing cases thereby reducing the overblown dockets of cause lists of courts. Similarly many State High Courts and the Federal High Court have since keyed into the idea of the Multi-Door Courthouse process, first, to see how the ADR can be used to resolve disputes before resorting to full blown litigation or adversarial method. Accordingly, Ilorin Akintayo notes that active case management would encourage the parties to use ADR procedure if the court considers that it would be appropriate and facilitating to use of such procedures.³³ A settlement agreement entered into once reduced in writing and signed by the parties is forwarded to the referral judge whereas in the case of walk-ins, the ADR judge would endorse a settlement agreement as an enforceable consent judgment. The effectiveness of ADR depends on the attitude of the courts to settlements reached through ADR in Nigeria. For instance, in *Folarin and another v Idowu & ors*³⁴, the Court of Appeal recognised the importance of the agreement to engage in mediation and other forms of out-of-court settlement in a contract as well as any settlement agreement made pursuant to such mediation proceedings. The Court further held that any settlement agreement made pursuant to contractually imposed mediation must be

²⁹ibid; Cap. I20 Laws of the Federation (2004)

³⁰Institute of Chartered Mediators and Conciliators ICMC Nigeria Admission to Fellowship Training Manual

³¹Ilorin Akintayo, *Alternative Dispute Resolution in Nigeria: Law, Practice and Procedure* (Lagos: Malthouse Press, 2020) 150

³²The Rules of Professional Conduct (RPC) for Legal Practitioners, 2007 prohibits lawyers from encouraging litigation. Except in cases of close relations or trust, a lawyer shall not offer advice or bring a lawsuit without being

consulted. Moreover, the Rules mandates lawyers to inform clients of ADR options before resorting to litigation. Its provision emphasizes exploring ADR as a first line of dispute resolution before going to Court or opting for litigation. By incorporating ADR, lawyers promote efficient dispute resolution, reduce costs, and preserve relationships.

³³Ilorin Akintayo, *Alternative Dispute Resolution in Nigeria: Law, Practice and Procedure* (Lagos: Malthouse Press, 2020) 175

³⁴*Folarin v Idowu* (2005) 12 NWLR (Pt. 941) 417.

enforced by the courts and will be binding on the parties who have endorsed it. The motivation for ADR is to provide access to justice through a user-friendly system as it offers disputants various doors to dispute resolution.

Synopsis of Common Mechanisms of ADR

ADR helps the parties resolve conflicts early and expeditiously and was designed to resolve the problem of delayed justice. Today, the most famous ADR methods are mediation, negotiation,

Negotiation

Negotiation is the preeminent mode 2 of dispute resolution and is always attempted first to arbitration, conciliation and mini-trial. Adebola Olawole noted that these methods are increasingly acknowledged nationally and internationally.³⁵ resolve a dispute. This method allows the parties to meet to settle a dispute, and it presents the parties with the opportunity to control the process and the solution. This is a less formal method than other types of ADR and is very flexible. Negotiation is preventive because it works to keep disagreements from escalating into full-blown hostilities between the parties. (Ifeanyichukwu Anthony Ogunye)³⁶ Negotiation takes the form of talks between two or more persons in which they voluntarily try to work out an agreement that will satisfy them. This method of ADR is extremely useful in preventing the escalation of disputes and improving relationships.

Mediation

Mediation, until when the AMA 2023³⁷ came into effect was another informal alternative to litigation which allows the bringing of parties together and attempting to work out a settlement or agreement that both parties accept or reject.³⁸ It is a voluntary non-binding process in which a neutral

person helps the parties to reach an amicable settlement. Parties usually enter into mediation and choose the mediator who proposes a solution for the parties' consideration and acceptance. The duty of a mediator is not to determine right or wrong but to control the process leaving the outcome to the parties since he cannot impose a decision on the parties. A mediator is simply a facilitating intermediary who acts as a catalyst by helping the parties identify underlying interests and enhance communication between the parties. Mediation is most effective and appropriate for conflicts that have multiple parties who have a long-term relationship that they wish to preserve or that require confidentiality. Mediation can be used to resolve a variety of legal issues such as contract disputes, contesting a will, divorce cases and child custody arrangements.

Conciliation

Conciliation is a process in which a neutral party meets with the parties to a dispute and explores how the dispute might be resolved. As a form of ADR, this method of dispute resolution allows a third party to facilitate communication between the parties in an attempt to help them settle their differences. The conciliator, in the words of Frank E.A. Sander, is more like an interventionist who provides probable solutions to the parties by giving suggestions and advice on the issue for resolving the dispute between the parties.³⁹ According to Jacqueline Nolan-Haley, a conciliator successfully initiate a conciliation, the conciliator inquires first from the parties whether they are prepared to settle the dispute amicably; if the response is positive, he then arranges a joint meeting with the parties. After joint sessions, the conciliator meets the parties separately and privately with a view to further discuss in confidence and understand the crux of the dispute, after which he considers each party's submissions and evidence. A professional conciliator then draws up and proposes the terms of

³⁵ Adebola Olawale, "Alternative Dispute Resolution in Nigeria: Challenges and Prospects" (2019) 15 JLCR 1.

³⁶ Ifeanyichukwu Anthony Ogunye, "The Role of ADR in Resolving Commercial Disputes in Nigeria" (2020) 10 JBL 1.

³⁷ Arbitration and Mediation Act, 2023

³⁸ *ibid*

³⁹ Frank E.A. Sander, "The Future of Dispute Resolution" [2007] 1 Harvard Negotiation Law Review 1.

settlement which must represent a fair compromise of the dispute.⁴⁰

Arbitration

Arbitration, as one of the growing methods of ADR is the chief among all other mechanisms, and is more formal than mediation since decisions or awards given thereof are binding, though it relies on the consent of the parties.⁴¹ According to Udo Udoma & Bello-Osagie,⁴² parties usually enter into a binding arbitration agreement with an arbitration clause prior to the dispute occurring, and such arbitration clause allows the parties to lay out major terms for the arbitration process such as the number of arbitrators, rules of arbitration, and arbitration forum. Arbitration can be held adhoc or with the administrative support of any of the institutional providers such as the American Arbitration Association. Arbitration is an expression of party autonomy which allows parties to settle their disputes amicably and peacefully. When parties agree to arbitrate their dispute, they select a particular mechanism that grants broad freedom to the parties to define the manner of dispute resolution and to minimize the role of the third parties.⁴³ Parties to arbitration want their dispute to be settled by a tribunal of their choice and they do not want to take the risk of delay by the courts.⁴⁴ Depending on the agreement of the parties, arbitration is headed by an arbitral panel or a single arbitrator. In setting up an arbitration panel, either both sides agree on one arbitrator, or each side selects one arbitrator and the two selected arbitrators elect the third. Arbitration also allows the parties to choose as arbitrators'

persons they consider more suitable to resolve their disputes, and these arbitrators do not necessarily have to be legal practitioners. Domestic arbitrations are statutorily governed by the Arbitration and Mediation Act, 2023 which repealed and replace the Arbitration and Conciliation Act, Chapter A18, Laws of the Federation of Nigeria, 2004 which is modelled on the UNCITRAL Model Law on International Commercial Arbitration. For instance, chapter 19 of the Arbitration and Conciliation Act provides for the recognition and enforcement of arbitral awards; it implements the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and adopts the Model Law's internationally accepted provisions for the conduct and regulation of arbitration.⁴⁵

Mini-trial

The mini-trial is a non-binding ADR process. This technique gives room for the disputants to be represented by their respective Legal Practitioners, who in turn present the matter to the representatives of the parties; usually executives of their organisation, who are authorised to enter into a settlement. After the attorney's presentations, the parties' representatives negotiate and if they are not able to reach a settlement, the neutral member of the panel will be asked to render an opinion on the merits of the case. According to Ernest Uwazie, the neutral's opinion is generally non-binding and there are no rules governing the conduct of mini-trials as the procedures are agreed upon by the parties in writing,

⁴⁰ Jacqueline Nolan-Haley, "Alternative Dispute Resolution in a Nutshell" (West Academic, 2015) 145.

⁴¹ G. Elias, "Recourse Against Arbitral Awards: Can the Right to Challenge an Arbitral Award be Waived Under Nigerian Law?" (2022) Journal of International Arbitration, Vol. 39, No. 4, pp. 537-554.

⁴² Udoma, Udo, and Bello Osagie. "Enforcing Arbitration Awards in Nigeria." (2022): Journal of Arbitration and Dispute Resolution in Africa Vol. 4, No. 1 pp.1-15.

⁴³ Gary Born, "Keynote Address: Arbitration and the Freedom to Associate" [2009] 38 Georgia Journal of International and Comparative Law, 7.

⁴⁴ Lord Hoffman in Premium Nafta Products Ltd v Fili Shipping Co. Ltd (2008) 1 Lloyd's Rep. 254 (6) (HL) as cited by Campbell Machlan, 'Lis Pendens in International Litigation' [2009] Hague Academy of International Law 341

⁴⁵ Samuel Olugbenga "Alternative Dispute Resolution (ADR): A Suitable Broad-Based Dispute Resolution Model in Nigeria; Challenges and Prospects". Journal of Dispute Resolution, 2023, Vol. 12, No. 1, 1-20

before the initiation of the process.⁴⁶

It should however, be noted that there are other less known but practiced mechanisms of ADR in settling disputes such as Pre-trial Conference which enables parties to a matter in Court to have a round table discussion to see how the issue in dispute can be resolved with terms of settlement that may later become consent judgment instead of full blown litigation, Early Neutral Evaluation, Ombudsman, Expert Determination, Neutral Evaluation, Hybrid Processes (such as Med-Arb, Arb-Med), Collaborative Law, Fact Finding, Dispute Review Board (DRB), etc.

Application of ADR in disputes between States and Non-State Actors in Nigeria

Disputes between states and non-state actors, such as corporations, organizations, and individuals, are increasingly common in today's globalized world. These disputes often involve complex issues, such as investment, trade, human rights, and environmental concerns. Traditional litigation approaches can be time-consuming, costly, and ineffective in resolving these types of disputes, thus, Oluwole Akinyeye and Ridwan Bello⁴⁷ advocate that ADR offers a promising solution, providing a flexible, efficient, and cost-effective way to settle disputes through its mechanisms.

Elias Olufemi notes that the increasing complexity of disputes involving States and non-state actors in Nigeria necessitates the adoption of effective and efficient dispute resolution mechanisms since traditional litigation approaches have proven inadequate, often resulting in prolonged

and costly legal battles. ADR offers a viable solution, providing a flexible, informal, and confidential approach to resolving such disputes.⁴⁸ Also, Nigeria's growing economy and international interactions have led to an increase in disputes involving states and non-state actors. These disputes often arise from issues such as investment, trade, human rights, and environmental concerns. Jibrin Yahaya emphasized that ADR mechanisms, including mediation, arbitration, conciliation, and negotiation, have been recognized and could be effective tools for resolving such disputes.⁴⁹ Okpeyemi and Robert corroborated this claim while stressing that the Arbitration and Mediation Act (AMA) embraces mediation as a legitimate dispute resolution mechanism in Nigeria, as well as introduces a unique provision allowing parties to opt for a review of their arbitral award by an Award Review Tribunal. This mechanism falls within the parties' jurisdiction and permits a second tribunal to assess challenges to an arbitral award, mirroring the grounds considered by a court for setting aside an award.⁵⁰

ADR and its mechanism have been adopted in several cases involving some States and Non-State Actors in Nigeria. For instance, in the case of Shell Petroleum Development Company (SPDC) vs. Ejama-Ebubu Community where Ejama-Ebubu community in Rivers State sued SPDC over environmental pollution, the Court ordered mediation, which led to a settlement agreement.⁵¹ Also, in the case of FGN vs. Host Communities of Nigeria (HOSTCOM), HOSTCOM representing host communities of oil-producing areas, negotiated with the Federal Government of Nigeria on the prompting of the Court resulting in an agreement

⁴⁶ Ernest Uwazie, "Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability" (2011) 16 Africa Security Brief, 1.

⁴⁷ Akinyeye Oluwole and Adebola Ridwan Olaoluwa "Imperative of National Policy on Arbitration in Nigeria" (2022): Journal of International Arbitration, Vol. 39, No. 4, pp. 555-572.

⁴⁸ Elias Olufemi "International Law and ADR in Nigeria" Nigerian Journal of International Law and Affairs, (2014) 6(1), 1-18.

⁴⁹ Jibrin Yahaya "The Imperative of Alternative Dispute Resolution (ADR) in Resolving Conflicts in Nigeria" (2021) Noun International Journal of Peace and Conflict Resolution, 128.

⁵⁰ Longe Opeyemi and Roberts W. "Recent Arbitration Reforms in Nigeria." White & Case Online Blog, June 15, 2022. <https://www.whitecase.com/insight-alert/recent-arbitration-reforms-nigeria>. Accessed 15/03/2025.

⁵¹ [2005] 13 NWLR (Pt. 943) 522

recognizing HOSTCOM's role in revenue allocation.⁵² The case of Lagos State Government vs. Residents of Lekki Peninsula, where in 2019, residents of Lekki Peninsula disputed the Lagos State Government's land acquisition. It is worthy of note that Arbitration led to an award and payment of ₦10 billion compensation by the Lagos State Government in favor of the residents.⁵³ In 2016, the Ilaje community in Ondo State sued Chevron Nigeria Ltd over environmental pollution in the case of Chevron Nigeria Limited vs. Ilaje Community. Mediation led to a settlement agreement.⁵⁴ Similarly, in 2017, the Ogoni community had a case with the reported as Nigerian National Petroleum Corporation (NNPC) vs. Ogoni Community as a result of NNPC's environmental practices, and Conciliation led to an agreement recognizing the Ogoni Community's role in revenue allocation.⁵⁵

There are currently a number of existing and ongoing cases involving states and non-state actors in Nigeria that may be resolved through ADR and may be classified into Environmental, Land, Human rights, Economic, and Community-Company based disputes as follows:

Environmental Disputes

- Bodo Community vs. Shell Petroleum Development Company (SPDC) - Oil spillage and environmental degradation. Suit No. FHC/PH/CS/273/2011 (Federal High Court, Port Harcourt); Ogoni Community vs. Nigerian National Petroleum Corporation (NNPC) - Environmental pollution and revenue allocation. Suit No. FHC/PH/CS/83/2015 (Federal High Court, Port Harcourt); Ikot Ada Udo Community vs. Mobil Producing Nigeria Unlimited -

⁵² (2020) 10 NWLR (Pt. 1735) 1; [2020] 5 SC (Pt. 1) 1

⁵³ (2017) 7 NWLR (Pt. 1566) 214; [2017] 5 SC (Pt. II) 134

⁵⁴ (2016) 5 NWLR (Pt. 1507) 221; [2016] 4 SC (Pt. 1) 101

⁵⁵ (2017) 13 NWLR (Pt. 1578) 1; [2017] 10 SC (Pt. 1) 133

⁵⁶ a compendium of some of the environmental related disputes and cases between states and non-state actors that are

Environmental pollution and compensation claims. Suit No. FHC/L/CS/636/2012 (Federal High Court, Lagos); Ejama-Ebubu Community vs. SPDC - Environmental pollution and compensation claims (no citation available)⁵⁶

Land Disputes

- Lagos State Government v. Epe Community (2019) Suit No. LD/1347LM/2018; Rivers State Government v. Oyigbo Community (2020) Suit No. PHC/1812/2020; Federal Government v. Tiva Community (2018) Suit No. FHC/YL/CS/14/2018; Anambra State Government v. Umueri Community (2020) Suit No. AW/134/2020; Edo State Government v. Oko Community (2020) Suit No. E/214/2020; Oyo State Government v. Ajia Community (2019) Suit No. I/222/2019; Stanley Bashiru Oseuno v. FGN and 4 ors. (2011) Suit No. B/559/2011; Monday O. Ojamiren v. FGN and 4 ors (2011) Suit No. B/559/2011; Moshood Onifade Akinwade V. FGN and 4 ors (2011) Suit No. B/559/2011⁵⁷

Economic Disputes

Federal Government v. MTN Nigeria Communications Ltd (2020) Suit No. FHC/L/CS/147/2020 (Federal High Court, Lagos); NNPC v. Addax Petroleum Development Nigeria Ltd (2019) Suit No. FHC/ABJ/CS/646/2019 (Federal High Court, Abuja); CBN v. 14 Commercial Banks (2019) Suit No. FHC/L/CS/742/2019 (Federal High Court, Lagos); Nigerian Agip Oil Company Ltd (2019) Suit No.

currently ongoing in various High Courts across the federating States in Nigeria.

⁵⁷ a compendium of some of the Land related disputes and cases between states and non-state actors that are currently ongoing in various High Courts across the federating States in Nigeria.

FHC/ABJ/CS/646/2019 (Federal High Court, Abuja); NIMASA v. Intels Nigeria Ltd (2020) Suit No. FHC/L/CS/1032/2020 (Federal High Court, Lagos)⁵⁸

Community-Company Disputes

- Okpai Community v. Agip Oil Company Nigeria Ltd (2018) Suit No. FHC/PH/CS/272/2018 (Federal High Court, Port Harcourt); Ibeno Community v. Mobil Producing Nigeria Unlimited (2015) Suit No. FHC/L/CS/636/2012 (Federal High Court, Lagos); Mbo Community v. Mobil Producing Nigeria Unlimited (2018) Suit No. FHC/L/CS/636/2012 (Federal High Court, Lagos); Ogale Community v. Royal Dutch Shell (2020) UK EWHC 3523 (QB) (High Court of England and Wales); Ijaw Communities v. Shell Petroleum Development Company Nigeria Ltd (2019) Suit No. FHC/PH/CS/272/2019 (Federal High Court, Port Harcourt); Bille Community v. Total E&P Nigeria Ltd (2019) Suit No. FHC/PH/CS/273/2019 (Federal High Court, Port Harcourt)⁵⁹

Pending Cases at the Court of Appeal and the Supreme Court where ADR can be adopted

- FGN vs. Rivers State Government - Dispute over revenue allocation. (10 years)⁶⁰

- Attorney General of the Federation vs. Ekiti State Government - Dispute over local government autonomy. (9 years)⁶¹
- Lagos State Government vs. Federal Government - Dispute over VAT collection. (8 years)⁶²
- Imo State Government vs. Federal Government - Dispute over oil well ownership. (7 years)⁶³
- Nigerian Maritime Administration and Safety Agency (NIMASA) vs. Rivers State Government - Dispute over maritime revenue. (7 years)⁶⁴
- Federal Government vs. Rivers State Government - Dispute over revenue allocation. (8 years)⁶⁵
- Lagos State Government vs. Federal Government - Dispute over VAT collection. (7 years)⁶⁶
- Oyo State Government vs. Federal Government - Dispute over electoral ward delineation. (6 years)⁶⁷
- Edo State Government vs. Federal Government - Dispute over oil well ownership. (6 years)⁶⁸
- Nigerian National Petroleum Corporation (NNPC) vs. Rivers State Government - Dispute over oil revenue. (5 years)⁶⁹

⁵⁸ a compendium of some of the Human Rights related disputes and cases between states and non-state actors that are currently ongoing in various High Courts across the federating States in Nigeria.

⁵⁹ a compendium of some of the economic related disputes and cases between states and non-state actors that are currently ongoing in various High Courts across the federating States in Nigeria wherein ADR can be deployed to resolve.

⁶⁰ a compendium of some of the disputes and cases between community and companies and other non-state actors that are currently ongoing in various High Courts across the federating States in Nigeria wherein ADR can be deployed to resolve.

⁶¹ SC/1014/2012

⁶² SC/292/2013

⁶³ SC/533/2014

⁶⁴ SC/1056/2015

⁶⁵ CA/PH/342/2014

⁶⁶ CA/L/533/2015

⁶⁷ CA/I/234/2016

⁶⁸ CA/B/456/2016

⁶⁹ CA/PH/278/2017

Recommendations

This Research recommends amongst others the following:

- The National Assembling and the House of Assembly of various States of the Federation should enact ADR-specific legislation to govern dispute resolution involving states and non-state actors while amending existing laws to incorporate specific ADR provisions that would make it mandatory for states and non-state actor's disputes to first go through ADR process before litigation. Also, the establishment of a National ADR Commission to oversee ADR development and the implementation of enacted legislation is imperative.
- Government at the Federal and State levels should consider the establishment of ADR centers and institutions at national, state and local government levels in the form of specialized ADR Courts and tribunals while training judges, lawyers, conciliators and mediators for the purposes of facilitating ADR processes in the courts and tribunals.
- Government should establish ADR standards and guidelines as well as develop a National ADR Policy Framework that would encourage public-private partnerships to support ADR in resolving state and non-state actors disputes.
- There should be adequate public awareness campaigns on ADR benefits as well as the establishment of ADR information centers where educational materials relating to ADR and its benefits can be transmitted to stakeholders.
- Develop online ADR platforms that are capable of utilizing video conferencing for virtual ADR and encouraging electronic filing systems for ADR.

- There should be monitoring and evaluation metrics to measure ADR effectiveness through
- the conduct of regular evaluations and assessments with a view to making adjustments to improve ADR effectiveness.

Conclusion

Adopting ADR mechanisms in resolving disputes involving states and non-state actors offers numerous benefits, including flexibility, confidentiality, expertise, time and cost efficiency, and preservation of relationships. While challenges and limitations exist, these can be overcome through clear procedures, neutral experts, education, and institutional support. Specifically, in *Owoseni vs. Faloye*⁷⁰ and *Aribisala vs. Ogunyemi*⁷¹ the Supreme Court held that where a statute prescribes a legal line of action for the determination of an action, be it administrative matter, chieftaincy matter, or a matter of taxation, the aggrieved party must exhaust all the remedies in that line before going to Court, it is concluded that embracing ADR as a pragmatic approach to dispute resolution can foster more effective, efficient, and sustainable relationships between states and non-state actors.

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⁷⁰ (2005) 14 NWLR (Pt 946) 719, 740

⁷¹ (2005) 6 NWLR (Pt 921) 212

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