

**ALTERNATIVE/APPROPRIATE DISPUTE (CONFLICT) RESOLUTION (ADR):  
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**ABSTRACT**

This is a discourse on Alternative/Appropriate Dispute (Conflict) Resolution (ADR) paradigms. Litigation is one of the popular ways of disputes/conflicts settlement. Hence, alternative/appropriate dispute resolution (ADR) therefore connotes other “appropriate” pragmatic and adaptive models of resolving disputes/conflicts apart from litigation, such as arbitration, mediation, negotiation, and conciliation. The motives of alternative/appropriate dispute resolution (ADR) are to prevent disputes, resolve it if it has developed, or manage it from being dysfunctional. Again, the choice of alternative/appropriate dispute resolution (ADR) model(s) to be employed depends on the peculiarities of the disputes/conflicts. Normally, the subject-matter of the dispute/conflict, urgency, finance, consequences, methodology, parties, and relationship often constitute the basic influencing determinants of the choice of alternative/appropriate dispute resolution (ADR) model(s). The psychological facilitators of alternative/appropriate dispute resolution (ADR) models include emotional intelligence of the parties and dispute resolution professional/expert, knowledge prowess of the expert, communication skills and openness, as well as commitment of the parties, pragmatism, strategy, and tactics. Alternative/appropriate dispute resolution (ADR) is recommended in settling disputes because it is convenient, cheap, flexible, adaptive, dignity-protecting, less time-consuming, friendly enhancing among others.

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**KEYWORDS:** Alternative-Dispute-Resolution, ADR, Psychological, Facilitators

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**INTRODUCTION**

Alternative/Appropriate Dispute (Conflict) Resolution (ADR) is the pragmatic practice of settling or resolving inter-socio-human discords. It is strategic oriented in the sense that it adapts to situational circumstances, as it strives to find the “appropriate” dispute/conflict settlement model(s). Basically, persistent dispute/conflict and its correlates of animosity and disagreement are internalized through biased socialization (Gbenda, 2009). As dispute/conflict is an inherent element of socio-human relations, efforts should be made to ensure that it should not be dysfunctional. That is the essence of the alternative/appropriate dispute resolution (ADR) models. The Nigerian socio-cultural perception of litigation makes its perspective of dispute/conflict management cantankerous. Litigation rarely resolves the fundamental psychological attributes necessary for effective dispute/conflict management. As identified by Nwankwo (2009), some of these crises management

strategies that are founded on psychology attributes include participation, socio-cultural manipulation, equity, and dialogue. The high legal officialdom of litigation deprives parties to the dispute/conflict some participatory and constructive human qualities that are inevitable for cathartic crises management. Essentially, litigation has the major advantage of using the societal and institutional coercive legitimacy and mechanisms to resolve conflict among recalcitrant parties. On the other hand, alternative (appropriate) dispute resolution (ADR) is more amenable to the psychosocial causes of dispute/conflict. Interestingly, Njoku (2009) recommends a healthy hybrid of both litigation, and alternative (appropriate) dispute resolution (ADR) in effective and efficacious dispute resolution/management.

The word “Alternative” in Alternative Dispute Resolution (ADR) connotes other avenues of resolving dispute/conflict like negotiation, mediation,

conciliation, and hybrid processes other than litigation. On the other hand, the word "Appropriate" connotes adopting and adapting the most suitable model(s) of dispute/conflict resolution among the models of litigation, negotiation, mediation, conciliation, and hybrid processes. Thus, while "Alternative" Dispute Resolution (ALTERNATIVE DR) seemingly excludes litigation in its dispute/conflict management models, "Appropriate" Dispute Resolution (APPROPRIATE DR) seemingly includes litigation in its dispute/conflict management models. As a result, alternative dispute resolution (ALTERNATIVE DR) may not be right in settling criminal matters, while appropriate dispute resolution (APPROPRIATE DR) may be very right. Nevertheless, Nwanekezie (2009) tends to incline to the "Appropriate" Dispute Resolution (APPROPRIATE DR) as a better dispute/conflict management strategy. This is because it is more pragmatic, adaptive, and is psycho-situational sensitive to the strategic goal of dispute/conflict management.

#### **GOALS OF ALTERNATIVE (APPROPRIATE) DISPUTE RESOLUTION (ADR)**

Alternative/Appropriate dispute resolution is usually targeted toward achieving preventive and therapeutic strategic goals (Nowakowski, 2009) depending on the situation and scale of the dispute/conflict. The strategic goals of alternative/appropriate dispute resolution (ADR) are as discussed below.

**Dispute Prevention:** This involves taking proactive measures aimed at inhibiting the development of interpersonal relations that can possibly induce potential conflict/dispute. For instance, timely handling of discrimination and other unhealthy practices in an organization can aid immensely in conflict resolution. Dispute prevention is a very healthy and constructive strategy of dispute/conflict resolution. It is a timely intervention activity that makes dispute prevention cheaper, safer, easily accessible, friendly, and constructive in settling interpersonal crises. It is not surprising therefore that Umar (2008) reflected extensively the fact that checking/controlling psychological extremism is a significant dispute/conflict prevention mechanism.

**Dispute Resolution:** This involves the active effort to settle an already existing conflict/crisis. It involves making a decision on the appropriate dispute resolution (ADR) model to be adopted in settling the conflict/crises. The cost analyses, time necessity, business advantages, interpersonal relation, social implications, etc are the considerations to be evaluated while deciding on the dispute resolution model(s) to adopt or employ. Often, appropriate dispute resolution (APPROPRIATE DR) may be required in settling conflict that needs legal declaration, and interpersonal or inter-group

negotiation. This is a common occurrence in matters of socio-cultural milieu. For instance, the Court stated that the masquerade is a lawful societal institution, just as the Church, and each should recognize the other (Onyia, 2006).

**Dispute Management:** This is an intervention programme to cope with the incidence of dispute/conflict. Dispute management embraces dispute prevention, and dispute resolution. This makes dispute management to be an institutionalized policy, which can easily be made reference to when there is the need to settle dispute. Essentially, dispute management aims at preventing conflict from developing, or to resolve it if it has already developed, or finally to contain it from being dysfunctional if it cannot be immediately settled, while a lasting solution is being sought (Nweke, and Nwankwo 2004). Dispute management is therefore a matrix hybrid of conflicts/crises settlement strategies.

#### **PARADIGMS OF DISPUTE/CONFLICT AND PEACE**

Dispute originated from the Latin word DISPUTARE, which means to DISCUSS or ARGUE. On the other, conflict also originated from the Latin word CONFLICTUS, which means DASHED TOGETHER. When dispute/conflict becomes unhealthy they connote discord, disharmony, quarrel, battle, or struggle as a result of motivated opposing and varied interests, needs, and goals. Again, frustration towards actualizing a goal breeds dispute/conflict among interested parties. Dispute/conflict is an inevitable aspect of human relations, due to varied perceptions, and incompatibility in ideas, goals, opinion, belief, motivation, and emotions (Aibieyi, and Okojie 2006).

There are certain situations in which the manifestations of dispute/conflict could lead to concerted efforts to resolve perennial problems. In these circumstances, dispute/conflict tends to be constructive, in as much as its hampering effects do not outweigh its enhancing implications. Constructive dispute/conflict stimulates seasoned groupthink, productive decisions, critical evaluation, etc that are indispensable for progress and development. Through this, dispute/conflict helps to clarify role expectations, rights, and obligations. Constructive dispute/conflict leads to the observation of Onyima (2007) that to solve societal problems effectively there is need for community capacity-building, collective effort/platform and community-based interventions programme. Thus; dispute/conflict can end up harnessing societal difference for better. It is this constructive attainment of dispute/conflict that alternative (appropriate) dispute resolution (ADR) aspires to achieve. There is no doubt that dispute/conflict can as well be very destructive. Deprivation, subjugation, prejudice, stereotype, ethnicity, extremism, discrimination,

negative indoctrination, bias, etc are some of the few psychosocial attributes that can easily induce destructive dispute/conflict. Such disputes/conflicts (crises) may lead to loss of lives and property. Basically, selfishness is a major determinant of dispute/conflict.

**Ideology of Peace:** Peace originated from the Latin word PAX, which connotes mutual recognition and agreement. It does not necessarily entail absence of war or hostility, but a mutual respect for the human dignity, integrity, and aspiration. Peace ensures justice and socio-human stability cum development through balances of requisite powers among beneficiary parties. Peace also embraces maintenance of transparency and accountability. A sustainable peace is the one that is built on reliable and trusted institutions for settling inter-group/interpersonal disputes/conflicts (crises). Again, to maintain peace, there is the need to recognize and value interpersonal relationship, by establishing socio-human institutions that will help individuals actualize their potentials. In the same vein, qualitative peace must be well anchored on equality and respect with reference to international standard. To achieve the above necessary conditions for peaceful living, there is the need for socio-human relations to be characterized by mutual understanding of rights, interests, intents, and respect for opportunities, notwithstanding the inherent motivated incompatibilities. These are what Mbaya, and Namadi (2009) summarized in their paradigm of peace as the spirit of tolerance and compromise.

**Dimension of Dispute/Conflict:** Disharmony can manifest in various forms. There is Intrapersonal Conflict which happens within an individual. For instance, there is the conflict of choice (of partner, commodity, profession etc). There is also Interpersonal Conflicts that occurs between or among more than one individual. For instance, there are disputes/conflicts among friends. Again, disputes/conflicts can occur as Intragroup Conflict, which happens within a group system. For example, dispute/conflict within a particular political party is an intragroup dispute/conflict. Finally, there is Intergroup Conflict, which occurs between or among more than one group. An example is a dispute/conflict among religious, or ethnic group, or sports teams. Basically, dispute/conflict is maintained by perceived threat to valued goal, and belief systems (Ezenwosu, 2008).

**Attributes of Dispute/Conflict:** These are the characteristics of dispute/conflict. It is caused by differing goals, as well as scarce resources. It threatens important interests and common good. Dispute/conflict leads to struggle for domination, in which the weak may lose-out, and the innocent suffers. Other attributes of dispute/conflict include

aggression, role confusion, bias, stereotyping, greed, selfishness, destruction, psychological manipulation. Furthermore, dispute/conflict induces stress, reduces performance, lowers moral, reduces benefits, increases wastages, hampers opportunities, makes one prone to mistakes and poor decision, reduces turnover. Yet effective management of dispute/conflict helps a person to be perceived as a competent leader. It also helps an individual to win the cooperation of others, and become influential. Consequently, alternative (appropriate) dispute resolution (ADR) is a potential leadership policy of achieving credibility and authority, as a socio-human manager. Similarly, an individual's self-esteem and respect is boosted in the event of successfully resolving dispute/conflict. Essentially, dispute/conflict exposes inherent problems.

**Causes of Dispute/Conflict:** There are myriad causes of dispute/conflict. They include misunderstanding, personality clashes, lack of cooperation, frustration and irritability, substandard performance, value and goal differences, violation of rules and policies, competition for scarce resources, struggle for authority and power, differences over workload among others.

**Benefits of Resolving Dispute/Conflict:** It is true that disputes/conflicts have both advantages and disadvantages. Nevertheless, the benefits of resolving disputes/conflicts are overwhelmingly not in doubt, and they are highlighted hereunder. Resolved dispute/conflict improves individual's performance. It also enhances productivity, performance, and efficiency. Similarly, it helps to maximize profit, potentials, and opportunities. Again, morale, decision-making capability and capacity-building are boosted by resolved conflicts. In the same vein, turnover is minimized, while cooperation is facilitated. Greater integrity and ethics are enshrined in the system by resolving prevailing dispute/conflict. In an effort to resolve conflict or dispute, socio-human values are promoted, while the principle of unity in diversity is observed (Okorie, 2008).

#### **ALTERNATIVE (APPROPRIATE) DISPUTE RESOLUTION (ADR) MODELS**

Various models (ways) of settling disputes/conflicts (crises) are available. They include litigation, negotiation, mediation, arbitration, conciliation, and hybrid processes. The choice of any model depends on the nature of the dispute/conflict, and the targeted goals of the parties. Their functional features are discussed below.

**Litigation:** This is the process of determining rights, obligations, and liabilities through the Court institution. In other words, it is system of settling disputes/conflicts through the law suits. Litigation

gives the final verdict that settles the dispute/conflict legally, but may not be psychologically. This is bearing in mind that the psychological attributes of every dispute/conflict are what make crises unhealthy. Litigation often carries acrimonious and malicious interpersonal relation and perception, except where the parties and their attorneys exhibit high level of human understanding and openness. Litigation is time consuming, costly, etc. even with its legal benefits in settling disputes/conflicts. The limitation of litigation in enhancing effective psychological settlement of dispute/conflict has been well reflected in the adopted definition of law by Ogugua (2003), when he said that law is a rule of human conduct, imposed upon and enforced among the members. In litigation, parties to the dispute/conflict are deprived their effective contributions and participation in the dispute/conflict settlement. They just watch and accept court's decisions willy-nilly.

**Negotiation:** This is a goal directed discussion cum communication between the parties in dispute aimed at settling or resolving the difference. Negotiation may fail when parties or their appointed negotiators lack the requisite skills and competences to search and create options capable of resolving the dispute. Inexperienced or incompetent negotiators are like new employees that tend to be nervous about taking new jobs (James, 2007). One of the stages of negotiation involves pre-negotiation preparation. This involves researching on the negotiation expectations and planning for them. Another stage (second) of negotiation is bargaining activities. These involve the creative application of the strategies and tactics so as to achieve favourable result from the negotiation. The third negotiation stage is implementation. At this stage, all the parties are expected to be committed towards making the negotiated agreement workout successfully.

**Mediation:** This is a process whereby a third party known as a mediator is invited or allowed to intervene in facilitating the settlement of the dispute/conflict, with the agreement of the parties in dispute/conflict. Mediation becomes very imperative when the parties are emotionally attached to their perceived justified rights and benefits in the dispute/conflict, that objective and joint search for settlement/solution is hampered. Essentially, the mediator should not suggest solutions to the parties. The mediator mainly facilitates communication, promotes understanding, and creates enabling psychosocial environment for open discussion and dialogue. A mediator as well enhances problem-solving creativity of the parties towards reaching mutually agreed solution. Thus, a mediator should not render personal opinions or decision. S/he is a neutral intervener (third party) who is only interested in the peaceful resolution/settlement outcome of

dispute/conflict. Mediator process is very effective in settling dispute/conflict when the mediator could resist or withstand pressures cum influence (Mejida, 2007) from interested parties. Yet the disputing parties retain control of both the mediation process and the settlement outcome.

**Arbitration:** It is a dispute settlement model or technique in which the parties in dispute appoint dispute settlement expert(s) referred to as arbitrator(s), to hear the parties' evidence and decide the dispute for them, based on the evidence weight(s), and concessions of the parties. The parties retain control over the arbitration process. However, from outcome, the arbitrator(s) have the power to give binding decision on the parties. Actually arbitration is based on the personal agreement of the parties, who can appoint or remove arbitrator(s), and choose the arbitration venue (Nwakoby, 2007). Arbitral tribunal decision is known as an Award, and it is enforceable like the Court's judgment. Consequently, only the court of law can set aside the arbitral Award, according to the regulating laws (the Arbitration and Conciliation Act, Cap A18, Laws of the Federation of Nigeria, 2004).

**Conciliation:** This is a dispute/conflict (crisis) settlement model in which a third party intervenes to assist the disputing parties resolve their conflict. Conciliation is distinguished from mediation with the following characteristics. A conciliator may be government personnel, who may officiate with reference to government policy. Hence, a conciliator is expected to work in compliance to regulating obligations or laws. Thus, conciliation is statutorily provided for as regards dispute settlement. Again, a conciliator could make personal opinions or suggestions for the parties. This latter quality makes conciliation a peculiar alternative (appropriate) dispute resolution (ADR) model for settling socio-human conflicts. When a dispute/conflict involves a larger segment of the society that it carries a socio-political perception, a modified conciliation known as Reconciliation is adopted. Here a reconciliatory commission is instituted and managed by well knowledgeable reconciliatory personnel. The aim is to assist aggrieved individuals and groups communicate their grievances, seek compensation, or render forgiveness (Nnedum, Ezeokana, and Egwu, 2006). Genuine/sincere reconciliation is therefore therapeutic.

**Hybrid Processes:** These are various other alternative (appropriate) dispute resolution (ADR) models/techniques that require peculiar competences, expertise cum skills to enhance their efficacy in dispute/conflict settlement. These models may be employed solely or combined. Often various attributes of the models are adapted intermittently as situations necessitate. Some hybrid processes are

Fast-Track Arbitration, Mediated Arbitration, Early Neutral Evaluation, Expert Appraisal, Mini Trial, Rent-A-Judge, and Settlement Conference. Thus, hybrid processes are like an open-system technique of competing values that are characterized by flexibility, innovation, and creativity (Amaeshi, 2008). The essence of the hybrid processes is to be pragmatic in finding solutions to settle the dispute/conflict satisfactorily.

#### **ALTERNATIVE/APPROPRIATE DISPUTE RESOLUTION (ADR) ENHANCERS**

The efficacy of alternative (appropriate) dispute resolution (ADR) depends so much on the adequate understanding of the knowledge of human behaviour. It also depends on the effective understanding of psychosocial situations influencing socio-human behaviour. By implication, comprehensive understanding of how to influence socio-human behaviour is very instrumental to the effective and successful application of the alternative (appropriate) dispute resolution (ADR). Hence, some of the psychological qualities that enhance the efficacy of alternative (appropriate) dispute resolution (ADR) are appraised below.

**Motive of Dispute/Conflict Resolution:** This is the rationale for engaging in any of the models of alternative (appropriate) dispute resolution (ADR). There are various such motives as to save time, save cost, sustain healthy interpersonal/inter-group relation, sustain good business relation, restore industrial harmony, privacy, create wealth, enhance opportunity, promote peace, etc. Inasmuch as the motive is being achieved, or likely to be achieved, parties have a greater tendency to accept alternative (appropriate) dispute resolution (ADR) that ensures the realization of the expected motive. The Government can apply a multi-dimensional approach in resolving crises (Isah, and Babayemi, 2009), especially when the crises are caused by socio-economic or development deprivation of a region of the society. Effective development of the area will give credence to the government's commitment at resolving the lack-of-development induced crises.

**Choice of Alternative (Appropriate) Dispute Resolution (ADR) Model:** The parties to the dispute/conflict have a choice in choosing the alternative (appropriate) dispute resolution (ADR) model to employ. They also choose the venue for the meeting. This therefore compels the parties to be committed toward resolving the dispute/conflict. Choice is essentially a major element of the socio-human civilization and development. Such empowering civilization allows for adequate representation, equitable participation, control over one's environment and resources (Ebuara, Ozurumba, and Udey, 2009). Interestingly, alternative (appropriate) dispute resolution (ADR) to a very

large extent requires the active involvement and devotion of the parties.

**Emotional Intelligence:** This is the personality quality that helps an individual reason suitably and correspondingly adopts creative behaviour that facilitates goal attainment. It is the type of behaviour that helps the disputing parties know when to give concession or not. Emotional intelligence is very significant in determining where and when to demand for or accept apology or blame. Many attributes that enhance alternative (appropriate) dispute resolution (ADR) are facilitated by emotional intelligence. Some of such attributes are communication, dialogue, rapport, goals expectation, dispute/conflict settlement strategies and tactics, planning, resolution, understanding one's strengths and weaknesses. As noted by Omoleke, and Bisiriyu (2009), it is often better to critically appraise one's weaknesses from within, so as to build external strength.

**Advantages versus Disadvantages:** The appraisals of the advantages versus disadvantages options can be compelling factors for parties to decide on alternative (appropriate) dispute resolution (ADR). Some of the advantages already noted include voluntariness, saving time and cost, flexibility, non-judgmental, pragmatism, participation and control of the process by parties, sustain parties' future relationship, privacy, as well as confidentiality of interests. On the other hand, the disadvantages include unchecked flexibility may be abused thereby creating uncertainty and mistrust. This may lead to negative implications. Again alternative (appropriate) dispute resolution (ADR) does not have binding decision/outcome on the parties, except arbitration. In the same vein, absence of precedent can lead to falsehood and cheating among the parties. Even time can be wasted and cost escalated by unscrupulous parties. Opponent's case and evidence may not be thoroughly assessed. And the weaker party may not be able to sustain bargain. To maximize the healthy benefits of alternative (appropriate) dispute resolution (ADR), the observation of Oyadiran (2009) is worthwhile that areas of conflict can be identified and minimized for the achievement of over all peace and harmony.

**Human Development Friendly:** Alternative (Appropriate) dispute resolution (ADR) enhances empathy. It also supports capacity-building efforts, by inculcating dispute resolution skills. One of the major objectives of millennium development goal (MDG) is to encourage people to sustain peace. Alternative (Appropriate) dispute resolution (ADR) is therefore modeled toward enhancing the availability of mechanisms for resolving disputes/conflict at the grass-root. Hence, it is community based, in the sense that individuals can settle their differences at the comfort of their locality. Peace has been elusive

to Nigeria because the country's nationhood is imposed on the people (Obukohwo, 2007). By implication, the amalgamation agenda, and the federalism of Nigeria are imposed on the three socio-political/cultural cum socio-economic regions of Eastern, Western, and Northern Nigeria. There is therefore a high need for belongingness, which Nigeria as a country has not succeeded in offering to the people. The exclusive policy, isolationism, and discrimination existing in Nigeria have gingered the regions to pursue their respective independence and sovereignty ambitions. Essentially, there is nothing wrong for Nigeria to convene a sovereign national conference as a hybrid process, or any other alternative (appropriate) dispute resolution (ADR) mechanisms that will help the country resolve their separation quests peacefully (Okafor, 2008).

### CONCLUSION

Alternative (Appropriate) dispute resolution (ADR) entails various models or techniques of settling socio-human disputes/conflicts (crises). Basically, disputes/conflicts are inherent and inevitable elements of socio-human relations. When disputes/conflicts arise, efforts should be made to resolve them. The models (types) of alternative (appropriate) dispute resolution (ADR) are therefore as follow: Litigation, negotiation, mediation, conciliation, arbitration, and hybrid processes. Each model's application depends on the nature of the conflict (crises), situation, and the competences or choice of the parties. Essentially, certain psychological qualities such parties participation, privacy, flexibility, cost, time factor, business and interpersonal relations, security, commitment, etc facilitate the efficacy of alternative (appropriate) dispute resolution (ADR). Thus, the recommendations below are therefore proffered.

### RECOMMENDATIONS

It is recommended that individuals should learn basic skills of alternative/appropriate dispute resolution (ADR). This will be a very necessary capacity-building for managing interpersonal/inter-group differences. Again, all the legal institutions, such as the Courts, or Ministry of Justice in Nigeria should establish alternative (appropriate) dispute resolution (ADR) systems. This will help immensely in healthy dispensing of justice, and settling trivial matters that congest the law Court. Again, legal practitioners should learn alternative/appropriate dispute resolution (ADR) for self-development, and earn their fees from it. Furthermore, the societal institutions, for instance the Government or the Religion, should be very open to the knowledge of alternative/appropriate dispute resolution (ADR). This is because military confrontation seems rather inconclusive in settling differences.

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