Effective Conflicts Management and Dispute Resolution in Higher Institutions in Nigeria: The Need for Alternative Dispute Resolution (ADR)

By

Anamoji, Godspower Sam Esq. (PhD)
School Of General Studies
Department of Social Sciences and Humanities
Federal Polytechnic of Oil and Gas, Bonny.
Rivers State, Nigeria
Contact: +2348037410070, +2349072388145
Email: godspower.anamoji@fedpolybonny.edu.ng

Abstract

This paper examines the need for effective conflict management and dispute resolutions in higher institutions in Nigeria. Universities, Polytechnics and other tertiary institutions in Nigeria although primarily saddled with the mandate of providing educational and technological advancements of students for sustainable development of the country, However, in course of doing this, the institutions are engaged in interactions, administration of staff, students, incidental commercial activities, and human resources management which sometime result to conflict of interests as well as disputes which need to be resolved. The effective management of the conflicts and disputes resolutions becomes a nagging problem for institutions in Nigeria as most times, these conflicts or disputes end up as litigations in Courts resulting to their being distracted and dissipated efforts in litigations instead of focusing on their core mandates and visions. Litigation is associated with high cost implications, delays, cumbrous procedures and severance of relationships which at the end culminates in WIN-LOSE, due to the conflict management technique usually adopted. This paper discusses the imperatives of effective conflict management and dispute resolution in academic institutions in Nigeria by advocating for a conflict management and dispute resolution that will enhance cost effective, time saving, relationship building, confidentiality, and WIN-WIN among stakeholders using Alternative Dispute Resolution (ADR) in accordance with the Arbitration and Mediation Act 2023. This paper adopts Doctrinal approach in analysing conflict management and dispute

resolution in Nigeria's higher institutions. The study recommends a paradigm shift from the orthodox litigation method to Alternative Dispute Resolution (ADR) as a more effective conflict management and dispute resolution techniques for higher institutions in Nigeria.

keywords: Conflict management, Dispute, Litigation, Alternative Dispute Resolution (ADR), Sustainable Development.

1.1 Introduction

Higher institutions like Universities, Polytechnics, Colleges of Education and other Tertiary institutions are tools for sustainable development in Nigeria through bringing up students and management of human capital resources as contained in the various extant laws, rules and regulations that govern the operations and management of those institutions not only for the present but for future development. Thus, there is a constant interaction among the stakeholders in the institutions which sometime leads to disagreements or conflict of interests in the society. Dispute is part and parcel of the society based on diverse interests of individuals which conflicts with others. These conflicts of interest results in disagreements which must be resolved one way or the other. For there to be continuous harmony, peace and progress for sustainable development, it becomes inevitable for Disputes to exist in any society, particularly in higher institutions: Universities, Polytechnics, Colleges of Education and other tertiary institutions in Nigeria. Accordingly Anyebe, P A, (2012) stated that[1]:

> Disputes are inevitable in any social context. Human beings are bound to disagree on and at almost every point of life as long as human beings interact, however, disagreement and disputes are bound to occur. These conflicts manifest themselves in civil and criminal forms due to conflict of divers' interests. Once these conflicts occur the individuals have to seek redress in ensuring that it is resolved.

[1] Anyebe, P A, "Towards Fast Tracking Justice Delivery in Civil Proceedings in Nigeria" in Azinge E and Dakas, CJ (ed) in Judicial Reforms and Transformation in Nigeria: A Tribute to Hon. Justice Dahiru Musdapher (Lagos: Nigerian Institute of Advanced Legal Studies 2012) p.136.

The resolution of these disputes takes different forms depending on the circumstances and place. It may take the form of litigation, violence confrontation or dialogue. Each method adopted determines the outcome and the extent of peace sought to be achieved in the society. Customarily, it was usually resolved by referring the dispute to family head, Elders or community heads for a compromised solution based on voluntary submission and subsequent acceptance by both parties. Thus, in the case of **Agu v Ikewibe**[2], It was held that customary Arbitration is an Arbitration founded on the voluntary submission of the parties to the decision of the Arbitrators who are either Chiefs or Elders of their communities and the agreement to be bound by such decision.

As the society grows in complexity, institutionally, commercially, locally and globally, the resolution of disputes takes wider dimension which mostly end up in courts of Law, as rightly pointed out by Kehinde Aina (2015)[3], that, Its resolutions (Disputes) as integral part of commercial and social economic developments are the major functions of law through litigation.

Litigation is one of the colonial legacies inherited by Nigerians as a major dispute resolution mechanism by adversarial mode through the court. Education also being one of the colonial legacies inherited from the British, the higher institutions in Nigeria: Universities, Polytechnics and other tertiary institutions grappling with appropriate conflict management mostly resort to court for resolution of disputes. It is an adversarial system which is a system of attainment of justice according to law through the intervention of a supposedly neutral third party who through the interpretation of law as a judge pronounces on the rights, obligations and liabilities of each litigant before him to attain legal justice[4]. Unfortunately, legal justice does not result to lasting peace, harmony and real justice in higher institutions, instead worsen the situation, leads to wastage of resources, delays and severance of

[2] (1991) 3 NWLR (pt 180) 385

[3] Kehinde, A "The Multi-Door Court House Concept: A Silent Revolution in Legal Practice being a Paper Commissioned for presentation at the Nigerian Bar Association Annual General Conference Jos, Plateau State on 28th August 4th September 2005.

[4] Anyebe P A (Supra) at P 137 - 138

relationship etc. hence the need to look for alternative techniques to ensure holistic approach for conflict management in higher institutions that will not only foster peace in the system but ensure that the mandate of the institutions for educational and sustainable development in the country is not derailed through violence and conflicts. This significant of this paper is to provide an effective, efficient conflict management technique that will boost sustainable development in higher institutions in Nigeria through alternative dispute resolution.

Objective

1 To identify the challenges of litigation method of conflict resolution.
2 To assess the effectiveness of Alternative Dispute Resolution (ADR) method for conflict management and dispute resolution in higher institutions in Nigeria.
3 To propose reforms for effective conflict management and dispute resolutions in Nigeria's higher institutions.

1.2 Conceptual Clarifications

1.2.1 Conflict Management

Conflict management is defined as the set of techniques required to identify and resolve conflict in workplace[5]. Conflict management is also the process of limiting negative aspects of conflict while increasing the positive aspect of conflict in the work place[6]. Accordingly, the advanced oxford dictionary[7] "Defined Conflict as a situation in which people, group or countries are involved in a serious disagreement or argument". It is a struggle to resist or overcome, contest of opposing forces or powers, strife, or battle. A state or condition of opposition, antagonism and discord according to Anni C C (2012)[8]. The above scenarios are common in higher institutions in Nigeria that calls for an effective technique to manage the conflicts. There is a subtle difference between Dispute and Conflict.

[5] www.indeed.com

[6] https://en.wikipedia.org

[7] Hornby A S: Oxford Advanced Dictionary of Current English (Oxford University Press, 6th Edition: 200), P 239.

[8] Ani CC "Anatomy of conflict in Azinge E & Anni C C (ed), Principles of Negotiation and Mediation (Lagos: Nigerian Institute of Advanced Legal Studies, 2012) P.3.

Dispute has to do with protracted disagreement and claims resulting from argumentation, debate or quarrel while conflict result from human interactions that lead to progress or a better outcome following the disagreement than otherwise would have been expected or to regress and failure following fight or struggle, Ajetunmobi A O (2017)[9]. Is a matter of semantics used by law and other disciplines.

Accordingly, Menkel – Meadow (2003) puts it clearly when he stated that:

> For the purpose of some (perhaps clearly), I suggest here as I review the history of the development of the field and its key idea and concept that disputes and 'dispute resolution' have been construed by the legal field and that conflicts and "Conflict resolutions" had been constituted by the broader particulars of social sciences (Anthropology, Political Science, International Relations, Sociology, Psychology, History, Economics and Game Theory and their more disciplinary social activities spin offs. While 'disputes' may be about legal cases, conflicts are more broadly and deeply about human relations and transactions. Conflict handling may be more and less involving and complicated than 'dispute settlement' or conflict management[10].

For purpose of this paper, dispute resolution or conflict management shall be broadly used interchangeable as one, since resolving dispute is not restricted to adjudication in court only but also by Alternative Dispute Resolution (ADR) that advocates resolution of dispute by human relation to achieve a better outcome.

[9] Ajetunmobi A O (Supra) at P.4.

[10] Menkel – Meadow ,Dispute Processing and Conflict Resolution: Theory, Practice and Policy (Alders hot:
Ashgate Dartmonth 2003), P. XVI

1.2.2 Dispute

Dispute according to the Black's Law Dictionary is "a conflict or controversy, especially one that has given rise to a particular Law Suit, Garner B A (2014)[11]" From the above legal point of view, a dispute is deemed to have come into existence once it becomes evident that a law suit will arise, Ajetunmobi

A O (2017)[12]. This is the English law Understanding of what constitutes 'Dispute' as held in the cases of **Halki Shipping Corp v Home Insurance Co**[13], **London & Amsterdam Properties Ltd v Waterman Partnership Ltd** [14] especially in Arbitration proceedings. It means that once money is involved and the plaintiff claims against the Defendant in court by way of adjudication there is a dispute. The above represent a narrow definition of what constitutes dispute as not all disputes are litigated.

1.2.3 Litigation

Litigation is a judicial Dispute Resolution where justice is attained according to law through the intervention of supposedly neutral third party who through interpretation of the Law, a judge pronounces upon the rights, obligation and liabilities of each litigant before him[15]. The constitution vests on the court the power and discretion of adjudicating or interpreting the law to determine the rights and liabilities on litigation matters[16]. The constitution also gives the citizens and organizations whose rights are violated or likely to be violated to seek redress in Court of law[17]. It is initiated when one party files a suit against another. Its proceedings are open to the public. The proceedings are very formal and governed

[11] Garner, BA, (ed) Black's Law Dictionary 10th ed. St Paul, Minn. Thompson Reuter, 2014, p.572.

[12] Ajetunmobi, A O "Alternative Dispute Resolution & Arbitration in Nigeria: Law, Theory and Practice (Lagos: Prmceton & Associates 2017) P.2

[13] (1998) I WLR 726

[14] (2003) EWHC 3059 (TCC) at 147

[15] Anyebe P A, (Supra) at 137

[16] The Constitution of the Federal Republic of Nigeria 1999 as amended, Section 6(6) (b) and Section 6(6)(a) [17] The Constitution of the Federal Republic of Nigeria 1999 as Amended, Section 36(1).

by rules of evidence and procedures. The outcomes are decided by an impartial judge based on the facts and questions of the case and the decision of the court is binding on the parties with an option to appeal by dissatisfied party. Perhaps, this is why most Disputes in Academic Institutions in Nigeria were resorted to litigation in cases on: contract of employment, **Olaniyan v The University of Lagos (1985)**[17], termination of employment, **Petroleum Training Institute v Benson Nesimone (1995)**[18], contract with statutory flavours, **Morohunfola v Kwara State Colleges of Education (1990)**[20], Discipline of staff for misconduct, **Garba v Unimaid (1986)**[21] and other matters relating to students and management etc.

However, litigations are bedevilled with drawbacks such as delays in determination from the date of filing a suit to judgement which takes longer time, increase in cost to litigants in terms of money, personnel and opportunities, cumbersome procedures, loss of confidence in the system, the disputants were not really involved or participated in resolving their disputes, Technicalities which left litigants success on series of variables and factors such as calibre of Lawyer a litigant can afford to pay and above all, it is a system of a winner takes it all and a complete loss to the other party **'Win-Lose'** that usually culminates in severance of relationship between parties. It is these problems of litigation that this paper exposes by bringing to limelight the legal framework and benefits of Alternative Dispute Resolution (ADR) and therefore suggests its use as an effective, better option of resolving conflicts by higher Institutions in Nigeria.

1.2.4 Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution (ADR) is a term generally used to describe the techniques and procedures of resolving conflicts either as alternative to the

[17] Olaniyan v The University of Lagos (1985) 2 NWLR (pt 9) 559

[18] Petroleum Training Institute v Benson Nesimone (1995) 6 NWLR (Pl 402) 47 [20] Morohunfola v Kwara State College of Education (1990) 4 NWLR (pt 145) 506 [21] Garba v University of Maiduguri (1986) 1 NSCC, Vol 17, 245 – 248. .

traditional dispute resolution mechanism of the court or in some cases as supplementary to such mechanism, Akeredolu A (2011)[19].

Alternative Dispute Resolution is therefore broad and more embracing to include various modes of settlement of disputes known as spectrum of ADR, namely: Arbitration, Conciliation, Mediation, Med-Arb, Arb-Med, Early Neutral Evaluation (ENE), Mini- Trials etc, Ogunyannwo S (2015)[20].

1.2.5 Sustainable Development

Sustainable development is an approach to growth and human development that aims to meet the needs of the present without compromising the ability of future generations to meet their own needs[21]. The aim is to have a society where living conditions and resources meet human needs without undermining planetary integrity. Academic institution in Nigeria are veritable tools for attainment of Sustainable Development Goals (SDGs) which aim at transforming the world by taking positive steps to end poverty and inequality, protect the planet and ensure that all people enjoy good health, justice and prosperity. Effective conflict management and dispute resolution in higher institution will enhance the achievement of the said sustainable development in Nigeria without inhibition by conflicts through effective and proper conflicts management.

2.1 LEGAL FRAMEWORKS FOR ALTERNATIVE DISPUTE RESOLUTIONS (ADR) IN NIGERIA.

1. The Constitution of the Federal Republic of Nigeria 1999 as amended

The Nigerian constitution section 19, provides for ADR conflict management in settlement of International disputes when it stated that *'the foreign policy objective shall be (d) respect for International law and treaty obligations as well as the seeking of*

[19] Akeredolu A, Mediation: What it is and how it works (Ibadan: Carenter Associates, 2011), P.5

[20] Ogunyannwo S, The Effective Mediator: A Complete Guide for Practicing Mediators (Enugu: Acena Publishers, 2005) PP 5 – 10

[21] https://en.wikipedia.org

settlement of International disputes by negotiation, mediation, conciliation ,arbitration and adjudication' CFRN (1999)[22]

2. The Arbitration and Mediation Act 2023

The extant legal framework for ADR is the "Arbitration and Mediation Act 2023. The Arbitration and Mediation Act 2023 repealed the Arbitration and Conciliation Act (ACA) 2004 and provides amongst others for legal framework for the fair and efficient settlement of commercial disputes through Arbitration and Mediation[23]. The act provides for Arbitration in Part 1 that[24]:

(1) The objective of this Part is to promote fair resolution of disputes by impartial tribunal without unnecessary delay and expense.

(a) Parties to a dispute are at liberty to decide the means by which their dispute may be resolved, provided they adhere to measures that are necessary to promote peaceful existence and protect public interest. The act empowers higher institutions to embark on alternatives dispute resolutions like domestic commercial mediation, Domestic Civil Mediation[25].

(b) This part applies irrespective of the basis upon which the mediation is carried out, including agreement between the parties whether reached before or after a dispute has arisen, an obligation established by law, or a direction or suggestion of a court, arbitral tribunal or competent government entity.

The above wide scope of the legal framework of alternative dispute resolution (ADR) includes academic institutions in Nigeria involved in commercial disputes, domestic civil conflicts and other government entities.

3. **Lagos State Citizens Mediation Law, No. 6 of 2007**[26] and other states' citizens Mediation laws like Akwa Ibom, Enugu, Kano State, Delta state etc.

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[22] The Constitution of the Federal Republic of Nigeria 1999 as amended, section 19 (d)

[23] The Arbitration and Mediation Act, Cap A18, 2023, Preamble Article 90

[24] The Arbitration and Mediation Act, 2023, Part 1, Article 1(1)(2) and (3)

[25] Arbitration and Mediation Act 2023, Cap A 18 Laws of Federation of Nigeria, Part II, Section 67(1),(2) and (3)

[26] Lagos State Citizens Mediation law, No.6, 2007, Section 2 provides that the center shall serve as an Alternative Dispute Resolution Center Providing a non-adversarial forum for the mediation and settlement of disputes between parties who voluntarily agree to the mediation of the disputes by mediators.

4. **Lagos Multi-Door Court House Law, No.56 Vol.40, 2007** [27]and other states Multi-Door Court House Laws E.g Rivers State, Kano etc which generally provides for court mandated mediations, Etuk C (2011)[28].

2.2 PROCESSES OF ALTERNATIVE DISPUTE RESOLUTIONS (ADR)

ADR is multifaceted approach to conflict management or dispute resolution and therefore have different processes. Some of them are binding, that is the outcome of some of the process is in form of a judgment or award by which the parties are bound and Non-binding, that is where the outcome is in form of settlement by which parties can accept or reject. There are also hybrid processes which engage multiple parties in complex, multi-issue problem solving and draw unknown binding processes such as negotiation, mediation and other non-adjudicating processes, Abdusalam, O A (2017)[29].

Below are some of the ADR spectrums or processes

Binding: (a) Arbitration (b) Fact-finding/Special inquiry (c) Ombusperson (d) Multi-door courthouse

Non-Binding: (a) Negotiation (b) Mediation (c) Conciliation (d) Early neutral evaluation

Hybrid / Mixed-Binding process: (a) Med-Arb (b) Arb-Med (c) Co-med-arb (d) Medaloa (Mediation and Last Offer arbitration)

Explanation of the Processes of the ADR

i. **Arbitration:** This is a dispute resolution process where in an informal hearing, a neutral third party called Arbitrator hears evidence and arguments and

[27] Lagos state Multi Door Court House law 2007, Section 16(1) (a)-(i) provides that the responsibility of Lagos State Court is to further cause mediation and give overriding objectives of the Lagos Multi-Door Court Law (LMDC). See also Order 16.R I of the Court of Appeal Rule 2011, which provides for Court of Appeal Mediation Program (CAMP).

[28] Etuk C (2011), Court Mandated Mediation Lessons learned in the Lagos multi-door court House, in Azinge and Ani C (ed), Principles of Negotiation and Mediation (Supra) at PS 239 – 240.

[29] Abdulsalam O A, (2017) Alternative Dispute Resolution & Arbitration in Nigeria: Law (Supra) P.35.

renders a decision based on the merits thereof. The third party has the authority to issue a binding decision based on objective standards. Arbitration can either be private and voluntary, where the parties choose to submit their dispute to arbitration and be bound by the decision of the arbitration panel, or compulsory and non-consensual, where the court requires the submission to assist in especially troublesome types of case or to manage better the flow of routine cases.

ii.

iii. **Negotiation:** This is a consensual dispute resolution process whereby parties in dispute come together to discuss, directly or indirectly, the matter in dispute between them in order to agree on the form of any joint action which they might take in the resolution of the dispute. Essentially, negotiation allows two or more parties to accomplish by agreement what no single party could, or would want to do alone. iii. **Conciliation:** This is an informal dispute resolution process whereby a neutral third party serves as an intermediary or messenger between disputing parties who are unwilling to meet. This form of ADR is often used interchangeably with mediation. For example, policy papers in countries such as Japan have use the term 'conciliation' rather than 'mediation' for a process in which a neutral third party assists disputing parties to resolve their dispute by mutually acceptable agreement.

iv.

Mediation: Mediation is a process in which disinterested third party (or a neutral) assists the disputants in reaching a voluntary settlement of their differences through an agreement that defines their future behaviour, Cooley J W (2006)[3031]. The European Union describes Mediation as:

[30] Cooley J W, The Mediator's Handbook: Advanced Practice Guide For Civil Litigation (Louisville, USA, National Institute for trial Advocacy 2006), P.3. See also Dispute Resolution (ADR): American Bar Association Standing committee on Dispute Resolution, 1989 P. 1-2

[31] European Union, Directive on Certain Aspects of Mediation in Civil and Commercial Matters, Directive 2008/52/EC. Article 3(a) and (b): See also, Ajetunmobi AO, (Supra) at 85. Arbitration and Mediation Act Cap A 18 LFN 2023, Section 67.

> A structured process however named or referred to, whereby two or more parties to a dispute attempt by themselves on a voluntary basis to reach an agreement on the settlement of their dispute with the assistance of a mediator. The process may be initiated by the parties or suggested or ordered by a court or prescribed by the law[34].

This is broad definition of mediation may not only involve disinterested person as a third party but may also be as a result of directive by court e.g Court Mandated Mediation or Prescription of the law. For example, the Arbitration and Mediation Act[32]. However, it must be voluntary. In this vein, Goodman and Hammerton (2010)[3334], defines Mediation as a voluntary, non-binding and private dispute resolution process in which a neutral person helps the parties to reach a negotiated settlement, Segun Ogunyannwo[35] lend his voice to the above definitions and described mediation as a process in which an impartial person, called the mediator, intervenes and facilitates communication and negotiation between contending parties to promote and achieve reconciliation and mutually agreed understanding and settlement. He describes mediation as a consensual dispute resolution process, though it involves a neutral third party called a mediator who helps the disputing parties to make decisions and reach agreements on matter of dispute between them. Parties in dispute meet with an impartial mediator at any point in the dispute. The goal in mediation is to produce a settlement solution, which is optimally satisfactory to both parties (a "win/win" solution).

iv. **Ombudsperson:** This is independent person who deals with citizens' complaints against perceived administrative, governmental, or organizational

[32] The Arbitration and Mediation Act 2023, Cap A 18 LFN Part II, Section 67 (1)(2) and (3)

[33] Goodman A and Hammerton A, Mediation Advacacy (New Delhi: Universal Publishing Co. PVT Ltd, 2010)

P.xvii. See also Brown and Marriot, ADR Principles and Practice, 2nd Edition, Sweet and Maxwell 1999, 127 –

[34]

[35] Ogunyannwo S, (Supra) at PP. 75 – 76

injustice. According to, Davis K C (1975)[36] "(t)he ombudsperson's powers are to investigate, criticize, recommend, and publicize." Accordingly, an ombudsperson is not a conventional mediator or alternative dispute resolution player but rather an effective investigator who tries to "set right" a national government system that is "out of gear." For example, in Nigeria, The Public Complaints Commission.

v. **Fact-Finding/Special Inquiry:** In Fact-finding, certain aspects of a dispute are usually referred to a competent neutral who makes factual determinations which are binding on the parties as they resolve their larger differences by litigation, arbitration, or otherwise. vi. **Multi-Door Courthouse:** In the multi-door courthouse, the parties in dispute are encouraged by the court to have an initial meeting with a neutral third party or an information officer who can then guide the disputants towards the most appropriate dispute resolution process – mediation, arbitration, case management or full trial – all of which are made available by or through the court itself. vii. **Mixed-Binding ADR Mechanisms (Hybrids):** These have both non-binding and binding elements. These include the following:

a) **Med-Arb:** This process combines mediation with an arbitration process at the end to resolve those elements of the dispute, which are not amenable to mediation. In med-arb, the third-party medarbitrator attempts to mediate the dispute between the parties.

b) **Arb-Med:** Arb-Med is the reverse of med-arb. It is a two-step process: In the first step, a neutral, third-party arbitrator, after listening to evidence, testimonies, opening statements, presentations, crossexamination of witnesses, and closing statement from all parties, finally makes and scale his or her award. In the second step, a neutral, third-party mediator then tries to assist the parties in mediating their dispute. However, if the mediation is not successful, the award is unsealed. An advantage of this process is its suitability for the use of the same person for both functions.

[36] Davis, K.C. Administrative Law and Government, 2nd ed., West Pub. Co., 1975, p.286.

c) Co-Med-Arb: Co-Med-Arb is a hybrid process combining arbitration, mediation, shadow mediation and mini-trial into one procedure. As with shadow mediation, there is hearing by the arbitrator and the mediator who are separate individuals. Both are present for a min-trial type hearing but the neutral performing the arbitral function does not attend the caucuses where confidential information is revealed.

d) MEDALOA (Mediation and Last Offer Arbitration): Under this method of dispute resolution, invented by an American, Robert Coulson, parties will first engage in mediation and, if unable to settle their dispute., this will be followed by each party submitting to last-offer arbitration to close the gap. The mediation phase of MEDALOA provides an opportunity for the parties to negotiate in confidence with the professional help of a trained mediator, by adopting a fair and reasonable final position, one that each party hopes will be selected by the arbitrator.

e) Early Neutral Evaluation: The three components of the term "early neutral evaluation" are perhaps the best way to define the process. "Early" means at or shortly after the beginning of the formal conflict. "Neutral," means that the process should be presided over by a neutral person, unconnected to the parties or their lawyers.

Early neutral evaluation leads to complete costly – discovery period in the case. Adding to its attractive qualities, it does not take much time and does not cost much in comparison to litigation.

2.3 NEED FOR ALTERNATIVE DISPUTE RESOLUTION (ADR) IN HIGHER INSTITUTIONS IN NIGERIA

It is imperative for higher institutions in Nigeria to explore or harness Alternative Dispute Resolutions to their benefit which is (i) generally problem solving (ii) Empowering of individuals (iii) Reduction of delays and cost associated with litigation (Adversarial) (iv) Demystification of the law and procedural justice (v) Predication on the parties and participation (vi) Preservation or enhancement of personal, social or business relationships (vii) simplification of litigation process

and relative informality, Reddy K J (2011)[37]. The focus of litigation is the past while ADR process addresses the future with its attendant benefits particularly in institutions and business disputes which includes among others: WinWin outcomes, cheaper, time saving, expertise, preserving relationships, privacy and confidentiality [38] . Thus, Jide Olakanmi [39] Pointed out four (4) reasons why Alternative Dispute Resolution (ADR) is preferable and should be explored by higher institutions in Nigeria. According to him he posits that:

i. That the process of litigation has become more and more time consuming, expensive and unduly cumbersome because of the considerable rise in the number of cases in our courts;

ii. That the commercial men and women would prefer a situation where their differences are settle in a friendly, congenial and business-like atmosphere;

iii. That commercial men and women would prefer a situation where the matter in dispute is resolved by persons who are experienced and knowledgeable in the particular subject matter of the dispute and that those and more are lacking in court;

iv. That some disputes are sensitive and of confidential nature and so disputants would wish to settle them in a private rather than in the glare of public proceedings in a court of law.

The above are briefly explained below:

1. **Saves Time and Money:** ADR offers the benefits of resolving dispute less expensively than a traditional legal action especially when used early in the life of a dispute, can save substantial time and money. By reviewing earlier agreements, it reduces the time and money disputants and courts might otherwise spend on litigation. Even where ADR does not produce an immediate resolution, it

[37] Reddy K J "Alternative Dispute Resolution in Rao, PC and Sheffied, W (Ed) (2011) Alternative Dispute Resolution: what it is and how it works (New Delhi: International Centre for Alternative Dispute Resolution, Universal Law Publishing Co. Pvt Ltd) P.79

[38] Akeredolu A (Supra) PP 5 – 11

[39] Jide Olakanmi (Supra) P 3

can still produce savings by clarifying and narrowing the scope of the dispute, Chartered Institute of Arbitrators (2008).[40] Thus, higher institutions stand a better chance of saving cost for themselves by resorting to ADR.

2. **Speed:** Almost any form of ADR can help resolve dispute in months ahead of traditional litigation. Once disputes are in ADR, they move outside the workings of the normal court calendar. Parties to the disputes only have to agree on when they are available and then fit themselves into the calendar of the chosen neutral. Most disputing parities who have agreed to the ADR process are already committed to a prompt disposition of the dispute. These reduces the issue of foot-dragging often associated with court that cases delays. So, cases normally get to resolution sooner than if they had stayed in court. This speedy resolution of conflicts will foster more peace and harmony easily in the system.

3. **Control:** There is a high degree of party control in ADR processes over the way the dispute is resolved because of its private nature, and also because the disputing parties create their own process and craft own agreement. In a judicial litigation, everything is imposed, from the dates of the proceedings to the judge or even the outcome. By creating and constructing their own agreement even before dispute has arisen to manage how their disputes will be resolved. That way, they can then predict when, where, and how the ADR procedure will be conducted and retain their right to speedy preliminary relief in case it will be needed.

4. **Flexibility:** The parties to disputes have flexibility in selecting the neutral third parties that will assist in resolving their dispute, what procedure and rules will apply to their dispute, and the outcome they envisage. In normal litigation, the parties cannot select the judge, and the judge may not often allow expert witnesses to explain extremely complex issues. Moreover, ADR gives room for addressing legal and non-legal issues as well as providing for remedies unavailable through adjudicative processes. That is, a process can be designed that is right for the particular dispute, and not be stuck with the off-the-shelf product available at the courthouse. Therefore, for example, in non-binding ADR such as

[40] Chartered Institute of Arbitrators Nigeria: Journal of the Chartered Institute Arbitrators Nigeria, April 2008, Vol 3, No 1, P.58.

meditation, the parties can fashion any form of remedy they choose. In binding form of ADR such as arbitration too, the neutral third party has much broader authority to construct a remedy than a judge, so long as it has an appropriate relation to the underlying agreement to arbitrate. This flexibility in ADR will enable higher institutions to adjust and adapt to more effective way of resolving conflicts rather than the rigid procedural method of litigation.

5. **Private and Confidential:** ADR processes are generally private and confidential. ADR processes are outside the court system, they are private in the sense that, neither the public nor the media have an immediate legal right to view the proceedings or records. Confidentiality encourages openness and it will be an important factor contributing to the effectiveness of dispute resolution in Nigerian higher institutions.

6. **The Interest Considered:** ADR processes, for example mediation, can take into account a wider variety of interest and concerns than litigation. Litigation focuses exclusively on the legal rights and responsibilities of the parties. While ADR can address legal obligations, it can also take into account a wide variety of non-legal interests and concerns, such as an interest in preserving the relationship, in having feeling acknowledge or in preventing similar disputes in the future. This is done by uncovering and addressing feelings, such as anger or hurt which may be fuelling the dispute.

7. **Win-Win Outcome:** ADR mechanisms results to win-win outcome whereby relationship are not severed. It promotes a less toxic atmosphere among the parties and heals animosity while encouraging relationship to continue. It is the almost universal experience of litigants that the litigation process can "take on a life of its own" and create both issues and hostility between the parties, which have not existed before litigation began because in litigation the winner takes all (Win-Lose) and relationship severed, ADR processes are designed to reduce the acrimony created by disputes and to help disputants still communicate with each other friendly.

8. **Opportunity to Tell Own Story:** ADR provides an opportunity to the parties to tell their own story on the real cause of the dispute for effective resolution. ADR processes can permit parties to tell their story to the other side and to a neutral third party in a way that is unavailable in litigation. In ADR processes, disputants are not limited in answering questions as they would in a trial but going into an indebt of their minds to express themselves with a view of resolving the dispute.

9. **Effective Options for Adoption of Remedies:** ADR usually provide various options for selection and adoption of remedies by the parties than litigation. Parties are not limited to monetary remedies or other remedies court would offer. Parties in addition can come up with what is the most effective option as their remedy or resolution of the dispute. It may even be mere apology or sorry which could hardly be obtained in court litigation.

10. **Satisfaction and Stress Reduction:** ADR mostly provides a satisfied process and results with less speed, expense, time which takes place outside the court room thereby, making it less stressful for the parties associated with litigation. The stress of often going to court only to be frustrated by adjournments and frivolous motions by lawyers is reduced to the barest minimum thereby reducing stress on the parties.

11. **A Single Procedure with Multifaceted Outcomes:** Parties can use ADR to settle in single forum different disputes involving several persons and jurisdictions, thereby avoiding the expenses and complexity of multi-jurisdictional litigation, and the risk of inconsistent results. It solves the problem of jurisdictional arguments which delays cases in litigation[41]. Higher institutions in Nigeria can use one alternative dispute resolution (ADR) method to resolve various conflicts that

[41] Anamoji G S, (2025) Quest for Policy Reforms on Disputes Resolution in Nigerian Polytechnics: The Imperatives of Exploring Alternative Dispute Resolution (Adr). Being Paper Presentation at 1st Academic Staff Union of Polytechnics (ASUP) Federal Polytechnic of Oil and Gas Bonny Chapter, International Conference on 28th – 30th May, 2025.

may arise in institutions without necessarily going to court to resolve the specific conflict.

3.1 Conclusion

Conflict management and dispute resolution is indispensable in higher institutions in Nigeria for peace, justice and achievement of the aims, visions, missions and goals of higher institutions geared towards sustainable development. Alternative Dispute Resolution stands out as a veritable tool of fostering effective, efficient and reducing cost without severing relationship as a result of conflict. The impact of Alternative Dispute Resolution in conflict management and dispute resolution outweighs that of litigation as rightly stated by Haruna B A (2013)[42] that ***"Alternative Dispute Resolution (ADR) evolved as an option to the traditional method or mechanism for settling conflicts or disputes most essentially because of people's natural apathy to litigation. It was developed because of the fact that settling disputes using conventional courts have become exceedingly costly, cumbersome, time wasting and excludes the participation of parties. ADR also has the positive potentials of preserving personal or business relationship which court litigation would have severed. ADR option of settling dispute has also come to decongest courts, reduce the amount of time it takes to resolve dispute, eliminate to the barest minimum resort to form and technicalities involved in formal litigation, save energy and resources invested or wasted in litigation".***

Finally, it is concluded that there is therefore the need for a paradigm shift from litigation to Alternative Dispute Resolution (ADR) as effective and efficient dispute resolution mechanism worthy to be explored by higher institutions in Nigeria for effective conflict management.

3.2 Recommendations

a) To advocate for the overhaul or amendment of laws, rules and regulations guiding the operations and management of higher institution to expressly include provisions for Alternative Dispute Resolution

[42] Haruna B A, Alternative Dispute Resolution (ADR): Concept, Dimensions and a New Adaptation in Kano Bar Journal Vol.1, No 1. July, 2013, PP.212 – 213

(ADR) mechanism for dispute settlement in Nigeria's higher institutions.

b) Setting up a Conflict Management or Conflict Resolution Committee in higher institutions in Nigeria which will oversee conflict resolutions and advice management on appropriate disputes or conflict resolution technique most suitable for each circumstance.

c) To always involve professionals in contract agreements to include Alternative Dispute Resolution clauses to be explored first before litigation, if at all in business contract agreements between the institution's Management and Contractors.

d) To develop a curriculum for higher institutions to enable staff, students other people have knowledge and skill on conflict management and dispute resolutions.

e) Organizing of workshops, seminars, conferences etc. to enlighten the higher institution stakeholders on conflict resolution and managements as a veritable tool of achievement of peace and progress which will be transformed into sustainable development.

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