Alternative Dispute Resolution: Historical and Contemporary Perspectives on Enhancing the Role of Traditional Rulers in Nigeria

Adeola Olufunke Kehinde*
Modupe Nancy Wiwoloku**
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Abstract:

KEHINDE, Adeola Olufunke – WIWOLOKU, Modupe Nancy: *Alternative Dispute Resolution: Historical and Contemporary Perspectives on Enhancing the Role of Traditional Rulers in Nigeria*. Conflict is undoubtedly an inevitable component of human interactions in any given society. Conflict arises from the differences and incompatibility of aims and values among individuals in a community. Throughout history, whether in ancient times or in the present day, when conflicts arise, people have always sought ways to resolve them, either through mediation or by turning to established legal systems. The implementation of Alternative Dispute Resolution (ADR) in response to the limitations of Litigation has undoubtedly revolutionized the Nigerian legal and conflict resolution system. ADR has seen substantial evolution, from its adoption by different Courts of the state of the federation to the establishment of multi-door courts. Moreover, Alternative Dispute Resolution (ADR) could be the crucial element and the solution to incorporating traditional rulers into the legal system. These rulers, who were significant figures in the pre-colonial age, have become obsolete due to the rise of litigation. This study will employ a chronological examination of the position and function of traditional rulers in the process of settling disputes during the pre-colonial era, and their subsequent role as influential but unofficial institutions in modern times, not recognized by the constitution. The analysis will also investigate Alternative Dispute Resolution (ADR), tracing its evolution over time and exploring its potential as a bridge between the informal traditional system and the official legal system. Additionally, it will address the importance of empowering traditional rulers and recommends that the Nigeria government should ensure that traditional institutions are empowered and integrated into the 1999 Constitution of the Federal Republic of Nigeria with defined roles.

Key Words:

Conflict resolution, Alternative Dispute Resolution, Traditional Rulers, litigation, conflict resolution

* Adeola Olufunke Kehinde, PhD. , Lecturer, Faculty of Law, Federal University Oye Ekiti, Ekiti State, Nigeria, ORCID iD: https://orcid.org/0000-0002-1554-6247 princessadeola2000@gmail.com

** Modupe Nancy Wiwoloku, PhD., Lecturer, Faculty of Law, Federal University Oye Ekiti, Ekiti State, Nigeria
ORCID iD: https://orcid.org/0009-0000-8510-7007

Introduction

Prior to 1914, the territory now known as Nigeria consisted of a wide range of diverse and distinct ethnic groups, each with their own unique systems of government and legal frameworks.[1] Some of these groups were led by a single traditional ruler, while others were governed by a group of rulers. These rulers effectively managed relationships and upheld the stability of their respective societies. They were responsible for maintaining peace and preserving the rich cultural heritage of the Indigenous people.[2] The role of traditional rulers has undergone continuous evolution since the beginning of colonialism. From individuals actively involved in promoting peace, protecting spiritual beliefs, and leading economic initiatives, to those who operate under indirect control as puppeteers, to advisory committees that existed during the first and second republics and continue to exist now, but with reduced status and lacking constitutional recognition. The introduction of the contemporary Nigerian legal system, a long-standing legacy of the colonial masters, has clearly transformed the stature of traditional rulers into passive roles in government and, to some extent, in adjudication.[3] The inclusion of proficient judges and lawyers, specifically, appeared to indicate the cessation of involvement of traditional rulers in peacebuilding endeavors.

Litigation has supplanted the old methods of mediation and arbitration employed by traditional rulers in the market square and the King's palace and has become the predominant approach to resolving disputes. Nevertheless, the excessive cost, punitive character, lengthy process, and complexities of litigation, particularly in modern times, have raised doubts about the effectiveness of litigation as the main means of delivering justice within the legal system.[4] Therefore, alternative dispute resolution emerged as a prominent alternative to the traditional litigation procedure.[5] The creation of a legal framework that led to the formation of the Lagos multi-door courthouse is undoubtedly a significant step forward. Alternative dispute resolution not only addresses the shortcomings of litigation but also promotes the involvement of traditional rulers in the current legal system, as the Nigerian legal system appears to be returning to its restorative origins.

The Supreme court acknowledged the role of ADR in resolving disputes among citizens in Nigeria prior to litigation. In the case of **Okpururu v Okpururu,**[6] Oguntade JSC affirmed that prior to the colonial era and the establishment of formal courts,

1 OKONKWO, O. (2023, September 29). *The Making of Modern Nigeria*. The Republic. https://republic.com.ng/october-november-2023/the-making-of-nigeria/

2 ibid

3 OLANIRAN, Olusola, & ARIGU, Aisha. Traditional Rulers And Conflict Resolution: An Evaluation Of Pre And Post Colonial Nigeria. In *Research on Humanities and Social Sciences*, *3*(21), 120–127.

4 KEHINDE, A. Alternate Dispute Resolution: a Panacea to the Nigerian Judicial System. In *Krytyka Prawa*, *14*(1). https://doi.org/10.7206/kp.2080-1084.508

5 *Alternative Dispute Resolution - an overview | ScienceDirect Topics*. (n.d.). Www.sciencedirect.com. https://www.sciencedirect.com/topics/social-sciences/alternative-dispute-resolution

6 Okpururu v Okpururu (1995) 4 NWLR (Pt. 391) 361

Nigerians indeed possessed a straightforward and cost-effective method of resolving conflicts among themselves. The court acknowledged that historically, conflicts were typically settled via communal methods, such as the involvement of Elders councils, Family meetings, and communal assemblies. These conventional processes depended on the sagacity, expertise, and erudition of community elders to settle conflicts and uphold social cohesion. Furthermore, it was seen that these conventional approaches were successful in resolving conflicts and fostering social togetherness. Therefore, they should be acknowledged and honored as integral components of Nigeria‘s diverse cultural legacy.

This paper seeks to discuss why and how traditional rulers can be integrated once more as active players in the legal system and how they can be instrumental to the promotion of ADR to meet the needs of the present legal system.

Research Methodology

This research utilized the Doctrinal method of legal research. The doctrinal method is a research approach that utilizes both primary sources, like statutes, and secondary sources, such as online resources, journals, and books.

Traditional Rulers and Conflict resolution in Pre-colonial Nigeria

Before the incursion of the British into what is known as Nigeria today, there existed diverse types of people with their unique system of government and legal system that can be divided into Monarchical, Centralized and Chiefly, and Republican, Decentralized or non-chiefly.[7]

The Administration of justice in traditional societies was based largely on unwritten customary rules interpreted by the institutions and individuals that exercised judicial powers.[8] Traditional rulers existed at the helm of affairs, welding Executive, Legislative and Judicial powers consecutively.

Traditional Rulers refers to the set of rulers of the various Nigerian peoples and communities before these people were brought together by the British colonial rulers in the establishment of Nigeria.[9] These are leaders who were recognized and chosen based on age-long beliefs by their people before British colonialization. Their positions were and are sanctioned by the traditions, history and culture of their respective people who hold them in high esteem and reverence[10].

7 ABUBAKAR, G. (n.d.). *Learn Nigerian Law*. Learn Nigerian Law. https://www.learnnigerianlaw.com/learn/legal-system/history

8 OLUWABIYI, A. A. An Overview Of Similarities Between Customary Arbitration And Native Courts As Platforms Of Administration Of Justice In Pre- Colonial Nigeria. In *Journal of Asian and African Social Science and Humanities (ISSN 2413-2748)*, *1*(1), 129–145.

9 OLOWOLAFE, O., OLONADE, O., & ADETUNDE, C. A Contextual Analysis of Three Major Tribes' Traditional Conflict Resolution Mechanisms in Pre-Literate Nigerian Society. In *Applied Research Journal of Humanities and Social Sciences*, *3*(3). https://doi.org/10.47721/arjhss20200303018

10 ibid

Despite the many differences between the system of government of the pre-colonial societies, a common characteristic was the "absence of clear demarcation between Judicial, Executive and legislative functions".[11] Hence, traditional rulers made laws, implemented these policies and were also at the helm of affairs in adjudication of disputes.

The centralized, chiefly and monarchical states were headed by an all-powerful monarch, that is, the Emir in the North, the Oba among the Yoruba and the Edos in the South.[12] In the North, dispute resolution was hierarchical.[13] The Emir's court was the highest court of appeal where disputes were resolved according to the dictates of the Quran.[14] The Emir's court also served as court of first instance for issues on which the Quran is silent. Privy to the Emir's court were the Alkali Courts headed by Alkali judges who are trained in the practice of adjudication of Sharia and Islamic Law.[15] They see to dispute resolution in districts and refer cases that are beyond their jurisdiction to the Emir's court.[16] Disputes among prominent merchants and traders were also usually settled by the Emir to ensure privacy and confidentiality as public figures were involved.[17]

Interestingly, the North was originally dominated by the Hausas and not the Fulanis. Prior to the advent of Islamic- Fulani domination, the Hausas had a communal hierarchical system for dispute resolution. Wherever they are congregated, they usually appoint a Sarkin Hausawa (Ruler of the Hausa people.) His main responsibility is to settle disputes amongst Hausas and between Hausas and their host communities. The Sarkin Hausawa also delegates responsibility to his appointees, who address issues according to wards or districts. Such a delegate is called the Mai ungwa (Owner of the ward). Where the Mai ungwa finds it difficult to resolve a particular dispute, he refers it to the Sarkin Hausawa who will now call his Ubangari (Committee of Elders).[18]

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11 OLUWABIYI, A. A. An Overview of Similarities between Customary Arbitration and Native Courts as Platforms of Administration of Justice in Pre-Colonial Nigeria. In *Journal of Asian and African Social Science and Humanities (ISSN 2413-2748)*, *1*(1), 129–145.

12 FALOLA, T. Indirect Rule and the Native Administration. *Cambridge University Press EBooks*, 215–234. https://doi.org/10.1017/9781009337205.012

13 RASUL, M., & ROBINS, S. R. *Assessment Of Dispute Resolution Structures And Hlp Issues In Borno And Adamawa States, North-East Nigeria*. Prinsensgate 2, 0152 Oslo, Norway.

14 AKANDE, R. Secularizing Islam: The Colonial Encounter and the Making of a British Islamic Criminal Law in Northern Nigeria, 1903–58. In *Law and History Review*, 1–35. https://doi.org/10.1017/s0738248019000166

15 ibid

16 UBAH, C. N. Islamic Legal System and the Westernization Process in the Nigerian Emirates. In *The Journal of Legal Pluralism and Unofficial Law*, *14*(20), 69–93. https://doi.org/10.1080/07329113.1982.10756268

17 FALOLA, T. Indirect Rule and the Native Administration. *Cambridge University Press EBooks*, 215–234. https://doi.org/10.1017/9781009337205.012

18 ABE, O., & OUMA, S. A Re-Assessment of the Impact and Potency of Traditional Dispute Resolution Mechanisms in Post-Conflict Africa. *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.3030666

Among the Yorubas, conflict resolution was similarly hierarchical in nature and the traditional rulers were at the top of the pyramid. The nature, circumstances and gravity of the conflict determine who settles the conflict. While conflicts on kingship were settled by King makers, it will be inappropriate for a land boundary dispute to the settled by the kingmakers. Disputes were submitted to family heads, chiefs, elders of the community for settlement and the parties will mutually agree to be bound by such decision.[19] This was in practice reconciliation, mediation and most importantly arbitration.

War was usually seen as the last resort as methods such as ultimatums among others were used to settle conflicts. The method of arbitration applicable among the Yorubas and the Igbos was closely similar as both were largely gerontocratic. The adjudicatory roles of the elders are expressed in the Yoruba proverb: *"agba kii wa loja kori omo tuntun wo"* which translates to mean where there are elders, issues are not escalated.[20,21] Hence, disputes were controlled and settled by the elders that is, the balees (head of the family), the balees (heads of the village), the Oloyes (chiefs) and the King.

There also existed a plethora of associations which managed disputes amongst its members. Professional disputes were settled by the head of the professional body. For instance, it is considered an abomination for a hunter to fornicate with a fellow hunter's spouse; *'ewo ni, ode o gbodo gbayawo ode.'* When issues like this arise, they are resolved by the Oluode (head of hunters).

The Oba's court was the highest court of appeal, the last resort, or the supreme court where the King mostly arbitrates and in fewer cases mediate as expressed in the Yoruba proverb*: "ase loba n pa, oba kii daba."*[22]

For stubborn disputants, methods such as ostracization and oath taking were employed. The spiritual arm served as the arbitral award enforcement mechanism. They were the Ogboni. It is also noteworthy that difficult criminal cases that involved important dignitaries were not tried openly, they were usually passed unto the Ogboni cult, and their decision was final and non-appealable.[23]

In the republican Igbo states, which shares close similarities with the states in the middle belt, there was no single person or body which was recognized as the traditional ruler, which is why it has been described by many literatures as "Acephalous." The Council of elders managed conflicts in the society. Each clan or village was governed by the council of elders, often constituted by the adult male of

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19 OLUWABIYI, A. A. An Overview of Similarities Between Customary Arbitration and Native Courts as Platforms of Administration of Justice in Pre- Colonial Nigeria. In *Journal of Asian and African Social Science and Humanities (ISSN 2413-2748)*, *1*(1), 129–145

20 ibid

21 AGO, L. #nigeria • 5 Y. (2018, January 28). *50 YORUBA PROVERBS AND IDIOMS*. Steemit. https://steemit.com/nigeria/@leopantro/50-yoruba-proverbs-and-idioms

22 ibid

23 ONADEKO, Tunde. Yoruba Traditional Adjudicatory Systems. In *African Study Monographs*, *29*(1), 15–28. https://doi.org/10.14989/66225

the community concerned, who jointly exercised executive, legislative and judicial control in the society.[24]

The Igbo society was democratized and placed emphasis on age, wealth, and status. There was the age grade (Otu-ogbo) who could mediate between waring members[25]. The Okparas were the family heads, and they made up the adjudicatory body for their clan[26]. Minor disputes among the women were settled by the umuadas (females of the clan). There also existed different professional bodies such as the hunter association (Otu-ndi nta) and many others[27]. The Council of elders were at the top of the pyramid of conflict resolution in their community. Decisions were reached by a consensus, and they were usually restorative than punitive in nature exploring mediation, negotiation, and arbitration in reconciliating conflicting parties.

There were various levels of offences in Igbo land ranging from Mmehe (negligence) to Alu (Crime) to Nso Ani (Abomination).[28] Hence, punitive punishments were reserved for grievous crimes, like exile and corporal punishment.

The pre-colonial judicial system in the many settlements, towns and chiefdoms existing as Nigeria today applied to the indigenes and non-indigenes. When the British arrived, they were also subject to these laws. It did not help in that the trading British did not understand most of these rules and deemed them inappropriate.[29]

Dispute Resolution in Colonial and post-colonial Nigeria

The advent of colonial rule saw the transposition of western-styled dispute resolution mechanisms where court assisted instrumentality became the only option for the parties.[30] At the eve of colonialism, white traders interacted more with the natives and conflicts between such parties could not be settled by the native courts because they were deemed in appropriate by the white man for many reasons.

First, the law was not only ascertainable from oral pronouncements, so it also denied foreigners a fore-knowledge of what laws to expect.[31] Also, the European adjudicatory system which priorities a win-lose adjudicatory outcome was ideologically different from the African legal ideology which priorities a win-win situation for both parties.

24 ibid

25 EZENWA, Chinedu Paul. *The Value of Human Dignity. A Socio-cultural Approach to Value Crisis among Igbo People of Nigeria*. Logos Verlag Berlin GmbH.

26 ORIJI, J. N. Sacred Authority in Igbo Society / L'Autorité sacrée dans la société Igbo. In *Archives de Sciences Sociales Des Religions*, *68*(1), 113–123. https://doi.org/10.3406/assr.1989.1400

27 ibid

28 Omoniyi Adewoye. *The Judicial System in Southern Nigeria 1854-1954*. Longman Publishing Group.

29 ibid

30 ABE, O., & OUMA, S. A Re-Assessment of the Impact and Potency of Traditional Dispute Resolution Mechanisms in Post-Conflict Africa. In *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.3030666

31 OLUWABIYI, A. A. An Overview Of Similarities Between Customary Arbitration And Native Courts As Platforms Of Administration Of Justice In Pre- Colonial Nigeria. In *Journal of Asian and African Social Science and Humanities (ISSN 2413-2748)*, *1*(1), 129–145

Besides, the traditional dispute resolution method of customary arbitration and mediation was deemed inappropriate to resolve commercial disputes due to their precariousness and complexity.

The dissatisfaction of the native adjudicatory system by the British led to the introduction of consul courts by the British government who appointed consuls to manage disputes between indigenes and foreign traders. Consequently, colonial administrators separated the jurisdiction of the courts based on race, with the result that while Europeans litigated in the formal courts, Africans used the local courts.[32]

Gradually, the incidence of colonialism eroded the pre-existing traditional adjudicatory system of the various entities that forms Nigeria today. It led to plurality in Nigeria's legal system, where the traditional legal system is permitted to co-exist with, but much more under the shadow of the Western styled litigation as long as it meets certain requirements.[33]

The adoption of the western styled litigation, the requirement of neutrality of presiding judges, the introduction of trained professionals as lawyers, amongst many others, restricted the scope of key players who revolved around the wheel of justice in the administration of justice. This led to the non-inclusivity of traditional rulers in the formal legal system as far as adjudication is concerned.

ADR in Nigeria

Just as equity rose as an alternative to Common law, Alternative Dispute Resolution rose as an alternative to the formal traditional process of dispute resolution, litigation. It covers a wide range of flexible dispute resolution mechanisms or out-of-court dispute settlement such as: Court Annexed ADR, Mediation, Conciliation, Arbitration and many more. ADR includes varieties of dispute resolution mechanisms that are short of, or alternative to full scale court procedure.[34] ADR is an extrajudicial approach, to resolving disputes and was firstly introduced in North America.[35]

The formal dispute resolution system which was inherited by Nigeria in common with many other ex-British Colonies, is an adversarial system, hinged on litigation, a formal court dispute resolution process.[36] However, over the years, litigation's strengths turned out to be its weaknesses. ADR arose largely (as stated earlier) because the litigation process was and still is, unduly expensive- in the long-run and especially prolonged as a result of judicial technicalities embedded in that method of

32 CAPPELLETTI, M., & GARTH, B. Access to Justice - Newest Wave in Worldwide Movement to Make Rights Effective. In *Buffalo Law Review*, *27*, 181–292.

33 ibid

34 ADLER, P. S. Is ADR a Social Movement? In *Negotiation Journal*, *3*(1), 59–71. https://doi.org/10.1111/j.1571-9979.1987.tb00392.x

35 KAUFMANN-KOHLER, G. Arbitral Precedent: Dream, Necessity or Excuse?: The 2006 Freshfields Lecture. In *Arbitration International*, *23*(3), 357–378. https://doi.org/10.1093/arbitration/23.3.357

36 MCQUOID-MASON, D. Could traditional dispute resolution mechanisms be the solution to reducing the volume of litigation in post-colonial developing countries – particularly in Africa? In *Oñati Socio-Legal Series*, *11*(2). https://doi.org/10.35295/osls.iisl/0000-0000-0000-1145

dispute resolution.[37] Back logged cases in our courts today, practically exemplifies the popular maxim: "justice delayed is justice denied," as cases last as long as the tenure of Judges.

There is no gain saying that litigation in Nigeria is adversarial in nature. Parties tend to become sworn enemies for life after most decisions of courts.[38] Counsels see litigation as a battle that must be won and the winner-takes-it-all feature of litigation most often than none, leaves the party at the other side of the scale of Justice, with little or no compensation for his time, energy, and expenses.[39] Even for the winner, litigation can result in a pyrrhic victory because of the time, cost, and unsatisfying resolution.[40]

This fact has defied the major goal of dispute resolution which is to quell hostilities and restore or forge new relationships, as the result of most legal battles is further animosity among the parties. Formal litigation is restricted by the adversarial system in establishing fairness and satisfaction.[41]

Globalization, resulting in the establishment of complex multinational commercial interactions, has further exposed the deficiencies of the legal system. Given the unpredictable nature of these commercial ties, litigation often proved to be an ineffective means of resolving such disputes. The protracted nature of litigation in these circumstances diminishes the monetary value of awarded damages, rendering the legal conflict unworthy for the final victor. Moreover, the nature of specific economic conflicts necessitates specialized understanding that general judges often lack.[42]

Besides, peculiar cases that require confidentiality are usually exposed to the full gaze of the court leading to public scrutiny and embarrassing revelations that mars the reputation of parties to such dispute.[43] Hence, the seemingly debutante of ADR in Nigeria's legal system, which was in fact a renaissance and revamp of customary arbitration and dispute resolution was a welcomed development to complement and supplement litigation as a method of dispute resolution in the Nigerian legal system.

Before the promulgation of The Arbitration Ordinance: which was the primus federal legal framework on arbitration in Nigeria, the English Arbitration Act of 1889

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37 BRETT, J. Attitudinal Structuring, Alternative Dispute Resolution, and Negotiation Strategy. In *Negotiation Journal*, *31*(4), 359–360. https://doi.org/10.1111/nejo.12107

38 ADENIYI, P. O. Improving Land Sector Governance in Nigeria. In *RePEc: Research Papers in Economics*. Federal Reserve Bank of St. Louis. https://doi.org/10.1596/28525

39 OLUFEMI, O., & IMOSEMI, A.. Alternative Dispute Resolution and the Criminal Judicial System : A Possible Synergy as Salve to Court Congestion in the Nigerian Legal System. In *Nigerian Chapter of Arabian Journal of Business and Management Review*, *1*(10), 59–69. https://doi.org/10.12816/0003701

40 ibid

41 CAPPELLETTI, M., & GARTH, B. Access to Justice - Newest Wave in Worldwide Movement to Make Rights Effective. In *Buffalo Law Review*, *27*, 181–292.

42 MCQUOID-MASON, D. Could traditional dispute resolution mechanisms be the solution to reducing the volume of litigation in post-colonial developing countries – particularly in Africa? In *Oñati Socio-Legal Series*, *11*(2). https://doi.org/10.35295/osls.iisl/0000-0000-0000-1145

43 RABINOVICH-EINY Orna. Going Public: Diminishing Privacy in Dispute Resolution in the Internet Age. In *SSRN Electronic Journal*.

was the extant framework in Nigeria. Due to the tri-regional structure of Nigeria, later after the amalgamation, each region had its own legislation on arbitration. These laws included: The Arbitration law of Lagos State 1958,[44] The Arbitration Law of former Eastern region 1963,[45] the Arbitration law of Kano state[46] and the Arbitration law of Cross Rivers state.[47]

The Arbitration and Conciliation Decree[48] promulgated in 1988, served as the first autochthonous legal framework for ADR practice in Nigeria, exclusively applicable to commercial disputes in the Country.[49]

Today, the Arbitration and Conciliation Act, 2023, which is an offshoot of the 1985 UNCITRAL model Law on International Commercial Arbitration, is the prominent federal statute that regulates ADR processes in Nigeria. It is however worthy of note, that state legislations on ADR exists in most states of the federation alongside the Arbitration and Conciliation Act even though ADR is an item on the residual list, which is the exclusive legislative competence of State governments in the Nigerian Constitution, raising debatable issues. However, this issue seems to have been resolved. In 2005, the National Committee on the Reform and Harmonization of Arbitration and ADR laws in Nigeria came to the view that: "The Federal Government has the constitutional power and competence to legislate on arbitration and conciliation but only in respect of trade and commerce which are international or interstate.[50]

In lieu of this, the Lagos Multi door courthouse, a court annexed ADR which was established by the LMDC Act 2007, was a legislation that marked a paradigm shift in the history of ADR in Nigeria. The court annexed ADR marked the acceptance of ADR as a method of dispute resolution by the Judiciary in a way, in that the court being an institution for dispute resolution, presents disputants with various methods of dispute resolution. Hence, the Multi Door Court House is a centre for dispute resolution through different doors, litigation included.

Today, so many states of the federation have established Multi Door Court houses and included in their High court's Civil procedure, provisions that encourage the settlement of disputes through ADR.[51] For Instance**,** Order 19, rule 1 of the FCT High Court Civil procedure 2018 provides that Judges are to encourage disputants to explore ADR processes. Similarly, Order 25, Rule 5 of the High Court of Edo State Civil Procedure Rules 2012, includes ADR as a means of dispute resolution

44 Arbitration law of Lagos State 1958 Cap 13, Laws of the Federation and Lagos 1958

45 Arbitration law of Former Eastern region Cap 10 Laws of Eastern Nigeria 1963 Vol 1

46 Arbitration law of Northern Nigeria 1963

47 Arbitration law Cap 12, Laws of Cross River State 1981

48 No 11 of 1988

49 ORJI, U. J. Law and Practice of Conciliation in Nigeria. In *Journal of African Law*, *56*(1), 87–108. https://doi.org/10.1017/s0021855311000246

50 OSSAI, S. E.. *Is the Nigerian Arbitration and Conciliation Act suitable to construction disputes? A critical analysis*. Ibanet.org. https://www.ibanet.org/nigeria-arbitration-conciliation-act#_ftnref5

51 *Alternative Dispute Resolution Multi-Door Courthouses Security, Justice and Growth*. (n.d.). https://www.britishcouncil.org.ng/sites/default/files/multidoor_courthouse.pdf

for disputants. Commercial cases, Industrial matters, Disputes about contract, Debt settlement and employment issues are the most popular cases settled through ADR.

In summary, the development of ADR in Nigeria is evident in continuum. The inclusivity of traditional rulers in ADR processes may not only be the key to inclusivity of traditional rulers in the Nigerian legal system, but also, the future of ADR.

Recognition of the ADR roles of traditional rulers by the Nigerian courts

Also, in ***Opute v. Opute,***[52] the Supreme Court of Nigeria highlighted the significance of traditional conflict resolution systems in Nigerian society in this instance. The court ruled that traditional methods of dispute settlement, such as the involvement of elders and community leaders, should be acknowledged and honored as a valid approach to settling conflicts, particularly in rural regions where access to formal courts may be restricted. The court additionally observed that conventional methods of resolving conflicts can be more efficacious and expeditious in settling specific categories of disputes, particularly those pertaining to family, land, and community issues. In addition, the case of ***Ugwu v Ugwu***[53] acknowledged the significance of traditional dispute settlement processes in Nigeria. The Court of Appeal determined that the utilization of conventional approaches to settling conflicts, such as the involvement of elders and community leaders, is not only acknowledged but also endorsed by the courts. This is because it offers an alternative avenue for resolving disputes in a less formal and more community-oriented environment.

In the case of ***Adeyemi v Oyekanmi,***[54] the Court of Appeal established that traditional rulers have a crucial function in resolving conflicts, particularly those pertaining to land and chieftaincy affairs. In ***Oluwa v Oluwa,***[55] the Court of Appeal acknowledged the significance of traditional leaders in resolving family conflicts, including those pertaining to inheritance and succession. In the case of ***Eze v Eze,***[56] the Court of Appeal highlighted the significance of traditional rulers in the resolution of disputes concerning traditional titles and chieftaincy problems. Also, in ***Obasi v Obasi,***[57] the Court of Appeal determined that traditional rulers have a vital role in settling disputes over land ownership and boundary issues. In the case of ***Nwosu v Nwosu,***[58] the Court of Appeal acknowledged the significance of traditional rulers in the resolution of family issues, including those pertaining to inheritance and succession. In the case of ***Ikenye v Ikenye,***[59] the Court of Appeal determined that traditional rulers play a crucial role in settling disputes over traditional titles and concerns of chieftaincy. In ***Ogboni v Ogboni,***[60] the Court of Appeal acknowledged

52 Opute v. Opute (2018) LPELR-44390 (SC)

53 Ugwu v Ugwu (2019) LPELR-47235(CA)

54 Adeyemi v Oyekanmi_ (2018) LPELR-44218(CA)

55 Oluwa v Oluwa (2019) LPELR-47083(CA)

56 Eze v Eze (2017) LPELR-42446(CA)

57 Obasi v Obasi (2015) LPELR-24814(CA)

58 Nwosu v Nwosu (2013) LPELR-22313(CA)

59 Ikenye v Ikenye (2020) LPELR-49531(CA)

60 Ogboni v Ogboni (2019) LPELR-47923(CA)

the significance of traditional leaders in settling family conflicts, including those pertaining to inheritance and the transfer of power. In the case of ***Uche v Uche,***[61] the Court of Appeal highlighted the significance of traditional rulers in settling conflicts pertaining to property ownership and boundary issues. In the case of ***Egwuonwu v Egwuonwu,***[62] the Court of Appeal determined that traditional rulers had a crucial function in settling conflicts pertaining to traditional traditions and practices. In ***Nwankwo v Nwankwo,***[63] the Court of Appeal acknowledged the significance of traditional leaders in the resolution of family conflicts, including those pertaining to inheritance and succession. In ***Okoro v Okoro,***[64] the Court of Appeal determined that traditional rulers have a significant responsibility in settling disputes concerning traditional titles and chieftaincy problems. In the case of ***Ezeanya v Ezeanya,***[65] the Court of Appeal highlighted the significance of traditional rulers in the resolution of land ownership and boundary issues. In addition, in ***Okeke v Okeke,***[66] the Court of Appeal acknowledged the significance of traditional leaders in settling family conflicts, including those concerning inheritance and succession.

These instances illustrate the Nigerian courts' recognition of the substantial influence of traditional rulers in resolving issues, particularly those pertaining to culture, tradition, and community affairs.

These examples illustrate the increasing acknowledgment by Nigerian courts of the significance of traditional dispute settlement procedures in settling disputes and fostering communal togetherness.

Having been established as a standard procedure for dispute resolution by the Arbitration and Conciliation Act, the Rules of Professional Conduct for legal practitioners 2007, Lagos Multi door courthouse 2007, Alternative Dispute resolution otherwise known as ADR may be the opportunity to integrate traditional rulers in the legal system to benefit from their wealth of experience. Also, considering the provisions of the 1999 Constitution[67] which provides that the state shall strive to promote Nigerian cultures, which enhance human dignity and promote national integrity, the Nigerian government is mandated to promote and preserve Nigerian cultures, encourage cultural practices that enhances human dignity and foster national integration through cultural activities. The traditional method of settling disputes in line with the culture of the Nigerian people should be encouraged at this crucial time in the history of judicial system in Nigeria, having been recognized in plethora of cases in Nigeria that traditional institutions can be efficient in dispute settlement.

61 Uche v Uche (2018) LPELR-45391(CA)

62 Egwuonwu v Egwuonwu (2017) LPELR-42665(CA)

63 Nwankwo v Nwankwo(2016) LPELR-41064(CA)

64 Okoro v Okoro (2015) LPELR-25715(CA)

65 Ezeanya v Ezeanya (2014) LPELR-23193(CA)

66 Okeke v Okeke (2013) LPELR-22352(CA)

67 Section 19 (d) of the 1999 Constitution of the Federal Republic of Nigeria Cap C23, LFN 2004

The need to strengthen traditional rulers

The indispensability of traditional rulers is a major theme that is evident throughout this work. Traditional rulers can be integrated into mediation which is a more informal and non-binding form of ADR as mediators. The status of a mediator as a "neutral" is similar to the belief of the Yorubas about who the king is. The King is addressed as *"oko gbogbo ilu"* which means "father to all." As a father, he is neutral in his judgement in matters brought before his court. Hence, the integration of traditional rulers as neutrals into ADR process, will be a continuation of their day-to-day role as mediators of their communities.

No doubt, it is a fact that Nigeria is a coat of many colors, comprising of diverse ethnic groups with different culture, customs, and practices. Hence, beliefs and orientation on land disputes, debt settlements and other similar issues will differ yet be similar in several ways. Having a traditional ruler mediate between disputants will help disputants come to a faster compromise due to the respect accorded to traditional rulers due to the position they hold in the society.

Hence, in delicate matters such as chieftaincy disputes, which is usually between closely linked, common descendants of an ancestor, having a traditional ruler mediate in such matter, will not only help parties reach a compromise and settlement faster, but also accord such matter the element of traditionality it requires. If chieftaincy disputes are largely about traditional institutions, it is submitted that dispute resolution processes, which are more closely similar to traditional dispute resolution models are therefore more likely to be effective. [68] In addition, from the plethora of judicial authorities considered in this article, there is a need to strengthen traditional rulers.

In the light of the aforementioned, it is imperative that traditional institutions be fortified, with their functions as delineated receiving legal endorsement. The necessity of amending the Nigerian Constitution to incorporate provisions for the authority of traditional rulers in the resolution of disputes is of paramount importance. Similar to the provisions established for our judicial system within the Constitution, it is imperative that traditional courts receive formal acknowledgement in Nigerian law, particularly regarding their roles in Alternative Dispute Resolution (ADR).

Recommendations

As it has been advocated for throughout this paper, it is recommended that traditional rulers be integrated into the ADR process as mediators in areas earlier mentioned. It is also recommended that necessary legal framework be put in place by each state government to encourage traditional rulers to view ADR as a key to their inclusivity into the Nigerian Legal system. Also, necessary collaborations with recognized and accredited ADR institutions should be made to train traditional rulers on what it takes to be an ADR neutral. It is further recommended that the 1999 Constitution of the Federal Republic of Nigeria be amended to formally accommodate traditional institution and give then a defined role in the area of dispute resolution.

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68 ibid

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Summary: **Alternative Dispute Resolution: Historical And Contemporary Perspectives On Enhancing The Role Of Traditional Rulers In Nigeria**

This article examined Alternative Dispute Resolution in Nigeria and the need to strengthen traditional rulers. When people in a community have different goals and ideals that are incompatible, conflict results. Whether in antiquity or the present, people have always looked for ways to settle disputes, whether it be through mediation or by using existing legal frameworks. The status and role of traditional rulers in the conflict resolution process were investigated chronologically in this study. It discussed the significance of giving Nigerian traditional rulers more authority over disputes and suggested that the government of Nigeria make sure that traditional institutions are given more authority and incorporated into the 1999 Federal Republic of Nigeria Constitution with clear functions to support the courts.

Adeola Olufunke Kehinde, PhD
Federal University Oye Ekiti,
Faculty of Law, Department of Private Law
Oye 370112
Ekiti State
Nigeria
princessadeola2000@gmail.com

Modupe Nancy Wiwoloku, PhD
Federal University Oye Ekiti,
Faculty of Law,
Oye 370112
Ekiti State
Nigeria

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