ALTERNATIVE DISPUTE RESOLUTION MECHANISM IN COMMERCIAL TRANSACTIONS: NIGERIA, ENGLAND, UNITED STATES, AUSTRALIA AND INDIA*

Abstract

Disputes are inevitable among people in any nation; whether domestic, international, civil, commercial or economic in nature. Litigation has been the normal mode of resolving disputes, by the parties. This paper examined alternative dispute resolution as a means of peaceful settlement of matters in commercial circles in diverse jurisdictions, using judicial pronouncements and statutes. It was the findings of this paper that, there are disputes which are sensitive in nature and disputants may prefer settlement in private to one in the court. Litigation often results in increased costs which disputants are naturally anxious to avoid. It was recommended the use of alternative dispute mechanism in resolving commercial disputes should be sustained and improved upon. The principles of Alternative Dispute Resolution (ADR) should be incorporated into our legal system and justice delivery system. Alternative dispute resolution must be done in line with international best practices to facilitate development in the economy of these selected jurisdictions. The national Assembly should enact pragmatic laws in these areas and there should be more public enlightenment campaigns of alternative dispute resolution methods in commercial transaction.

Keywords: ADR, Commercial Transactions, Practice, Procedure

1. Introduction

Disputes are generally an inevitable part of human interaction; they may be domestic, international, civil, commercial or economic in nature. Litigation has been the traditional method of resolving disputes, which may arise as a result of default (sometimes unintended) by a party. There are disputes which are sensitive and confidential in nature and disputants may prefer settlement in private to one in public glare of court. In addition, the complexity of court litigation tends often times towards increase in costs which disputants are naturally anxious to reduce. On the other hand, there may be claims involving small sums, which may not be worth the cost of litigation. All these have led to the development of alternative methods of resolving disputes. Commercial transactions, is an important means for the generation of revenue for a large percentage of individuals and corporate organisations, it is therefore of a great importance that when a dispute arises in the process of transacting business, it has to be resolved quickly so as to prevent the disruption of future business transactions. A question therefore arises as to what happens, where for instance businessmen cannot resolve the disputes which arise amongst themselves in the process of transacting business? Where there is a breakdown of business relations, the next point of call would be for the parties to turn towards the law courts; for an adequate resolution of the dispute, with the jurisdiction of these courts in the specific matter serving as a guiding light, for the proper adjudication of issues, which in the case of commercial disputes falls within the purview of the federal and state high court of Nigeria.[1] The resolution of disputes in the law courts has mostly been by means of litigation, which to a very large extent is notoriously: tedious, long, frustrating and greatly seems to hamper the future development of businesses relations between the disputing parties and as such it therefore suffices to conclude that litigation does more harm than good as business men to a great extent frown greatly at litigation preferring to otherwise opt for other subtle means for the resolution of their disputes in its place. This paper seeks to examine Alternative Dispute Resolution (ADR) mechanism in Nigeria commercial transactions.

3. Meaning of Alternative Dispute Resolution (ADR)

A considerable number of definitions have been offered as to the real meaning or definition of A.D.R either in statutes, judicial decisions, legal or treatises all which have proven inadequate or relative depending on the perception, view and personal experience of individual making a case on the subject matter. Some of the expressions of opinions on ADR are considered below for ease or understanding and better exposition on the concept. ADR is commonly defined as any process or procedure for resolving a dispute other than adjudication[2] by a judge in a statutory court.[3] The term 'alternative dispute resolution' or 'ADR' is often used to describe a

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[1]Amaechi Chijioke, Alternative Dispute Resolution; an effective means for commercial conflict resolution in Nigeria, (2016). Available at http://academia.edu/attachments/57960006/download_file?st=MTU3OTU0MTQ5MywxMDUuMTEyLju2LjExMywxMDI5NzM5Nzg%3D%s

[2] The term adjudication refers to litigation in the formal court system, as opposed to alternative modes of dispute resolution. Adjudication, however, is also used to describe a number of processes, under the umbrella of alternative dispute resolution, that closely resemble the formal court process, being involuntary and adversarial, typically with win-lose outcomes

[3] Lukasz Rozdeiczer and Alejandro Alvarez de la Campa, *Alternative Dispute Resolution Manual – Implementing Commercial Mediation Washington,* D.C.: The World Bank Group, 2006.

wide variety of dispute resolution mechanisms that are short of, or alternative to, full-scale court processes. The term can refer to everything from facilitated settlement negotiations in which disputants are encouraged to negotiate directly with each other prior to some other legal process, to arbitration systems or mini-trials that look and feel very much like a courtroom process. Processes designed to manage community tension or facilitate community development issues can also be included within the rubric of ADR.[4] The Black's law dictionary defined Alternative Dispute Resolution as *'*A procedure for settling a dispute by means other than litigation.'[5] According to Orojo[6] 'The term Alternative Dispute Resolution is used generally to describe the method and procedures used in resolving disputes either as alternatives to traditional dispute resolution mechanism of the court or in some cases supplementary to such mechanism'. According to Stephen J. Ware*, '*ADR can be defined as encompassing all legally permitted processes of dispute resolution other than litigation.*[7]* Justice Dyson in *Halsey v. Milton Keynes General Nhs Trust*[8] while quoting from the glossary of the Civil Procedure Rules, ADR is defined as: 'A collective description of methods of resolving dispute otherwise than the normal trial process'. In the 'Training Manual on A.D.R. and Restorative Justice,'[9] ADR is described as: '…the set of mechanism society utilizes the resolve dispute without resort to costly adversarial litigation'. In yet another breath,[10] A.D.R. was explained to include: 'Dispute resolution processes and techniques that act as a means for disagreeing parties to come to an agreement short of litigation. It is a collective term for the ways that parties can settle disputes (with or without) the help of a third party'.

ADR frequently involves the intervention of a third person to assist disputants in negotiating a settlement of their conflict. The process of ADR is normally initiated with the agreement of the disputants. While they are not limited to these processes, typical methods of ADR in international disputes involve mediation and conciliation. These techniques are not necessarily mutually exclusive in any particular conflict, and can be and often are used sequentially or in a customized combination with other adjudicative methods of resolving disputes.[11] Arising from the foregoing, it is apparent that though there is no agreeable definition of ADR, yet a common theme appears to be that, ADR seeks to provide an alternative platform for dispute resolution other than the conventional adjudicatory method offered by the court system and this is to be realized by not abrogating or jettisoning the latter, but by derogating from its strict rules, principles, processes and procedure.

4. History of Alternative Dispute Resolution (ADR)

ADR is as old as human society. Many of the techniques that are regarded as ADR have deep and separate roots in their respective localities. ADR like all processes developed overtime from rudimentary practices to better refined ones. The origin of ADR in its modern context has been traced to the United states of America where the system developed out of the scratch as far back as the early 1920s, for a more efficient and effective judicial system as alternative to litigation which has proved to be acrimonious, costly, unpredictable, rigid, over-professionalised, damaging to relationships and limited to narrow right-based remedies. Arbitration and other alternative dispute resolution methods; mediation, conciliation, etc, in Nigeria, are not without historical antecedents. In the traditional setting – villages, hamlets, settlements and towns – dispute resolution is almost as old as the tradition and customs of the people. Alternative Dispute resolution is therefore an age-long cultural phenomenon in Nigeria as it is in most African Countries. The earliest attempt at consolidating arbitration in Nigeria was in 1914 when the first statute was enacted- the Arbitration Ordinance of 1914, which applied to all the parts of the country.[12] Expectedly, the Nigerian Arbitration Ordinance was modeled after the English Arbitration Act 1889 in view of its colonial history. Later that year the ordinance was replaced by an Act and

[4] S Brown. C Cervenek and D Fairman, 'What is ADR', in Alternative Dispute Resolution Practitioners Guide

[5] Bryana A. Garner (ed) (2009) *Black's Law Dictionary*. 91

[6] 'Arbitration as means of dispute resolution' (a paper presented at a seminar) by Hon. (Dr.) Olakunle Orojo CON, OFR, FciArb Lagos. 1.

[7] Ware, Stephen J. (2001) Alternative Dispute Resolution. Pg 5 – 6

[8] (2004) E.W. CA 576

[9] 'Training Manual on ADR and Restorative Justice' by United Nations Office on Drugs and Crime and Nigeria Judicial Institute, October 2007.

[10] En.m.wikipedia.org/wiki/alternative – dispute resolution visited on the 27th July,2014

[11]United Nations Conference on Trade And Development: INVESTOR-STATE DISPUTES: PREVENTION AND ALTERNATIVES TO ARBITRATION II Proceedings of the Washington and Lee University and UNCTAD Joint Symposium on International Investment and Alternative Dispute Resolution, held on 29 March 2010 in Lexington, Virginia, United States of America

[12] 1914 Nigeria Ordinance, Orders and Regulations, 199. This was issued as Chapter 9 of the 1923 edition of the Laws of Nigeria and later as Chapter 13 of both 1948 and 1958 editions of the Laws of the federation of Nigeria{ Ch. 9, 92 (1923);Ch. 13, 204(1948);Ch.13, 204(1958)} see further Charles Mwalimu, Peter Lang, The Nigerian Legal System, 2009, 646,658).

became Arbitration Ordinance Act, 1914. In 1954, the Act applied to all the regions in the country.[13] It is interesting to note that the application of the Act relates to both domestic and international arbitration.[14] The first indigenous Statute on Arbitration and Conciliation was enacted in 1988, by a military Decree. It was known as the Arbitration and Conciliation Decree 1988 and came into effect on 13th March, 1988. Today this Decree has now been re-enacted as The Arbitration and Conciliation Act.[15]
The Act is described in its recital as:-

An Act to provide a unified legal framework for the fair and efficient settlement of commercial disputes by arbitration and conciliation; and to make applicable the Convention on the Recognition and Enforcement of Arbitral Awards (New York Convention) to any award made in Nigeria or in any contracting State arising out of international commercial arbitration.[16]

The aim of the Act is to provide a unified legal framework for the fair and efficient settlement of commercial[17] disputes by arbitration and conciliation; andto make applicable the Convention on the Recognition and Enforcement of Arbitral Awards (New York Convention) to any award made in Nigeria or in any contracting State arising out of international commercial arbitration.[18] Part III of the Act[19] relates to the International Commercial Arbitration. Section 48 sets the grounds under which an arbitral award may be set aside.[20] There is no striking difference from the provisions of Article V of the New York Convention. The future of arbitration practice in Nigeria is bright, there is so much that needs to be done in the development of this alternative to dispute resolution; more people need to be enlightened as to how it works, thereby easing the load on our nation's Judiciary and also aiding the growth of the nation's economy when commercial disputes are quickly and easily resolved.[21]

5. Classification of A.D.R

Negotiation: Negotiation involves direct communication or discussion between two or more parties to find a common ground or reach a joint decision on their on own, their own concern.[22] It may be face to face, through telephone or by written communication.[23] It is a process whereby parties to a dispute attempt to settle that dispute on their own and without the assistance or intervention of a third party. Parties may either be represented by professional negotiators or conduct the negotiation themselves. Negotiation allows parties to participate directly in decisions that affect them. By being directly involved parties, are effectively able to address their own needs and the needs of the opposing party. A negotiated agreement can become a contract and be enforceable by the courts. There is no set process for this method of dispute resolution (although obviously some methods work better than others) and parties' approach can range from extremely combative to extremely facilitative depending on them and on the nature of the dispute. Where no third party is involved there is no agreement or decision reached unless the parties reach it themselves. Negotiation could either be formal or informal.

Conciliation: It involves a situation where a third party known as conciliator is obliged to use his best endeavours to bring parties in a dispute to a voluntary settlement of their dispute. It is seen as much more interventionist in outlook than mediation. Conciliation is less formal than arbitration. This process does not require an existence of any prior agreement. Any party can request the other party to appoint a conciliator. One

[13] The regions then in existence in Nigeria were Northern, Western, Eastern, Mid-Western Regions and the Federal Territory of Lagos, the then Southern Cameroons.
[14] This Act was later to be incorporated into the Laws of the Federation of Nigeria, 1958 as this was the year Nigeria had the first set of organized laws.
[15] Cap A18 Laws of the Federation of Nigeria 2004.
[16] Recital to the Act.
[17]'commercial' as defined under section 57 (1) includes 'all relationships of a commercial nature including any trade transaction for the supply or exchange of goods or services, distribution agreement, commercial representation or agency, factoring, leasing, construction of works, constructing, engineering licensing, investment, financing, banking, insurance, exploitation, agreement or concession, joint venture and other forms of industrial or business co-operation, carriage of goods or passengers by air, sea, rail or road.'
[18] See note 16.
[19] Sections 43-55 of the Act.
[20] See Section 48 of ACA.
[21]Lanre Adedeji, Dispute Resolution and The Practice of Arbitration, available at https://www.thelawyerschronicle.com/category/law-practice accessed 11/2/20.
[22] Halpern, A. Negotiating Skills (London, Blackstone Press Ltd) 1992, 3.
[23] Obi Okoye A, 'Law in Practice in Nigeria: (Professional Responsibilities and Lawyering Skills), Enugu, Snapp Press Nigeria Ltd. 2011. 295.

conciliator is preferred but two or three are also allowed. In case of multiple conciliators, all must act jointly. If a party rejects an offer to conciliate, there can be no conciliation. Parties may submit statements to the conciliator describing the general nature of the dispute and the points at issue. Each party sends a copy of the statement to the other. The conciliator may request further details, may ask to meet the parties, or communicate with the parties orally or in writing. Parties may even submit suggestions for the settlement of the dispute to the conciliator. It is however governed by the Arbitration and Conciliation Act.[24]

Arbitration: Arbitration is a prominent and unique spectrum of ADR based on certain attributes it shares with litigation and can be regarded as a process of resolving disputes between people or group by referring them to a third party either as agreed by them to a third party either as agreed on by them or provided by law who makes a judgment.[25] Arbitration is similar to traditional litigation where an impartial 'judge', called an arbitrator, hears both parties and their witnesses in the manner of a trial and renders a binding decision based on the evidence and law. Despite the similarities to traditional litigation, private arbitrations can be relatively quicker and cheaper at resolving disputes because unlike public courts, the process is decided by both parties to generally work with their interests. The resolution process timelines and other details (i.e., which laws to use, how much evidence should be produced) can be adjusted to suit the needs and schedule of both parties. Parties may elect to go directly to arbitration or attempt to resolve the situation through mediation first. It can either be domestic, institutional, international or ad hoc.[26]

Mediation: Mediation is anchored on the participation of a third party neutral (called the negotiator) who facilitates or assists parties to arrive at a negotiated agreement. The mediator does not compel in this regard but only elicits facts, agenda and option for settlement by so doing help the parties to negotiate and achieve a win-win solution to their dispute.[27] Mediators do not make decisions about who is right or wrong or what the best outcome should be. A key advantage to mediation is that the parties have significant control over the end result. Decision-making power stays in the parties' hands, and is not passed on to a judge or arbitrator. Instead, a mediator helps bring the parties together by establishing a framework for the negotiation within which all parties agree to participate.

Meditation/Arbitration: A two-step or better still, hybrid process founded upon an initial adoption of mediation as the basic mechanism of dispute resolution and where it fails, the remaining issues are automatically submitted to arbitration. The effect of this is that, the final result reached combined any agreement reached in the mediation phase and award in the arbitral phase.[28]

Mini-Trial: Mini trial is intended to assist parties gain better understanding of issues in disputes and thereby provide necessary basis for them to fashion a settlement hence even where no settlement is arrived at, information and perspective gained through it are beneficial and can help result in quick resolution of the matter at trials and other more formal proceedings.

Expert Determination: It is usually consensual process in which a neutral third party usually an expert in the field in which the dispute arises gives a binding determination on this issue in dispute based on the exercise or his professional judgment.[29] A dispute may be referred to Expert Determination either by means of a term in a pre-existing agreement or on an ad hoc basis. It is quick, inexpensive and private method of resolving disputes. Unlike an arbitrator, an expert has no obligation to act judicially, although he must act fairly. The decision of an expert is, generally, only challengeable on very limited grounds.[30]

Early Neutral Evaluation (ENE): It is usually adopted soon after a case has been filed by reference to an expert who is asked to provide a balanced and neutral evaluation of the dispute.

6. ADR Mechanism in Nigeria

The Federal Republic of Nigeria has an up to speed legal framework for the conduct of alternative dispute resolution. The Federal Act itself a modification of the 1985 UNCITRAL Model Law. It should also be

[24] Section 37 – 42 & 55.
[25] Halsbury's Law of England, 4th ed, vol 2.
[26] Obi Okoye A. note 22. 324-325.
[27] Brayne H. and Grimes R: The Legal Skills Book, 2nd Ed (London, Butterworth 1998). 395.
[28] Henry J. Brown and Arthur L. Marriot. 'ADR Principles and Practices' 4th ed, London, Sweet & Maxwell/Thomson Reuters, 2011.
[29] L.T. Owen, Alternative Dispute Resolution in Contractual Matters. 2
[30] Eunice R. Oddiri, Alternative Dispute Resolution, presented at The Annual Delegates Conference of The Nigerian Bar Association

mentioned that the Lagos Law has in No. 10 incorporated the recent amendments of 2006 into its laws.[31] Nigeria has also domesticated the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958. The courts are as a result fully aware of the nature of arbitration agreements and its binding nature of which several facilities have been provided for the administration and implementation of arbitration. It may therefore be succinctly deduced that Nigeria has a crop of arbitrators who are highly trained in the art of the resolution of disputes. In *Imani & Sons Ltd. v. BIL Construction Co. Ltd*,[32], the appellate court held the party seeking enforcement must in addition to the Motion on Notice expected to be filed by a party seeking enforcement, the party has to adhere to the following simple requirements: 1) The Arbitration Agreement; 2) The Original Award; 3) The name and last place of business of the person against whom it is intended to be enforced; 4) Statement that the award has not been complied with, or complied with only in part.

The legal regime is therefore an indication that Nigeria indeed possesses adequate provisions for arbitration's institutionalization. These laws thereby provide a highly supportive and specialized legal regime for the most contemporary of international commercial arbitrations. The regime also provides an enticement for international trade's conduct. With an effective and efficient judicial system, the free flow of commercial transactions will be encouraged, but the question remains as to why there is such apathy towards arbitration? The answer to this question seems to be related to the attitudinal problem, for in considering the speed which arbitration demands, it is highly unacceptable for arbitral matters to take more time than required in the law courts, where parties to a dispute seek the enforcement of an arbitral award. This is therefore the problem in Nigeria. The result of the fact that judges in Nigeria, lack the required competence for the tackling of the technical nature of arbitration proceedings, while lawyers on their own part employ delay tactics, evidence of inglorious years of litigation which has beclouded their judgment. Parties are thence at a fix.

The case of *Continental Transfert Technique Limited v. the Federal Government of Nigeria & 4 ors*,[33] attests to the aforementioned assertion. In that case, an arbitral award was obtained by the Claimant in a Nigerian court. The time limit that was required in order to seek annulment of the award in Nigeria expired on 15th November, 2008. The defendants, whom were all Nigerian, did not institute any application before the courts. On April 2009, (Four months after the deadline to seek for annulment) the Nigerian parties then sought an injunction to prevent the enforcement of the award by the Claimant and for the extension of time to adequately apply for a challenge of the arbitral award. Prior to the initiation of the proceedings by the Nigerian parties, the Claimant sought the enforcement of the award within England and the United States (US) jurisdictions against one of the defendants'[34] properties. The US court dismissed Nigeria's defence to enforcement and denied its request for an adjournment pending the Nigerian annulment court action.[35] In England, the Court granted an interim order for the enforcement of the award against the defendants until 24th June, 2009, anticipating that the Nigerian action should have been determined by then. On 23rd November, 2009 the defendants applied to the court to have all orders set aside or stayed. The English High Court initially granted a stay on based on the condition that the defendants provide security in the amount of UK 100 million pounds. The court went on to hold that the mere fact that an application was instituted to set aside an arbitral award in the country of rendition does not conclude that the award has been set aside or automatically suspended. The court has a discretion to order a stay pending the annulment proceedings. The case is as other cases which involve Nigeria and foreigners in a dispute. It is therefore indeed disheartening to say the least as noted by the courts, to note that the defendant's application before the court in England did not indicate their application to institute a challenge on the validity of the award, which had no real prospect for success being that there was a lack of evidence before the courts to rebut the position.

Practice and Procedure of ADR

The realisation by the government of Nigeria both at the state and federal level that the courts alone cannot serve the purpose of satisfying settlement of commercial disputes amidst conflicting parties have necessitated efforts to ingrain into the legal system, a framework for alternative dispute resolution. The idea of the multi door court

[31] Mrs. Adedoyin Oyinkan Rhodes-Vivour, FCIARB - *Legal Framework for International Commercial Arbitration /Adr In Nigeria* www.documents.mx/documents/legal-framework-for-international-commercial-arbitration-adr-innigeria-cedr-uk.html.

[32] [1999] 12 NWLR [Pt. 630] 253 at pg 263.

[33]Yearbook Commercial Arbitration, Volume XXXV (2010), 474. Available online at http://www.arbitrationicca.org/media/3/46528830894996/table_of_contents_corrected.pdf accessed on the 22nd Febuary 2020.

[34] The Nigerian National Petroleum Corporation. *http://www.nnpcgroup.com/*

[35] Halsbury's Laws of England, 4th Edition, para 501 p. 225, and *K.S.U.D.B. v Fanz Construction Ltd* (1990) 4 NWLR (pt 142) 1 at 32; *MISR (Nig) Ltd v. Oyedele* (1966) 2 ALR (Comm.) 157; *NNPC v. Lutin Investments Ltd & Anor* (2006) 2 NWLR(Pt. 965) 566.

house in Nigeria reputed for being the brain child of the Negotiation and Conflict Management Group (NCMG) in conjunction with the High Court of Lagos established the Lagos Multi Door Court House (LMDC) in 2002 through private-public sector partnership initiative. The Lagos Multi-Door Courthouse **(**LMDC**) was** established on June 11, 2002, as a public-private partnership between the High Court of Justice, Lagos State and the Negotiation and Conflict Management Group **(**NCMG**),** a non-profit private organization. The overarching objective of The LMDC is to facilitate dispute resolution within the Nigerian Justice System. It is the first court-connected Alternative Dispute Resolution Centre in Africa. Inspired by the 'multi-door' concept enunciated by Harvard Law Professor, Frank Sander at the Pound Conference, The LMDC **f**ounder, Kehinde Aina, a partner in the law firm of Aina, Blankson & Co., established the Negotiation & Conflict Management Group **(**NCMG**)** in 1996 as the non -governmental organization to advocate the expansion of ADR in Nigeria and midwife the introduction of the Multi-Door Courthouse concept into the Nigerian Judicial System. His speech at the official launch of the LMDC on Tuesday, June 11, 2002, is most instructive of the purpose underlying its establishment.

He commented:
The road to the events of today began in 1995. Having spent most of my early practice years in courtrooms, it became crystal clear to me that the justice system was in desperate need of an overhaul. I envisioned a comprehensive justice centre where both the consumers and providers will be collaborators and co-creators of a streamlined and agile process.

This model refers to the various alternatives available at first instance to the LMDC and to consider appropriate dispute resolution channel including mediation, arbitration etc. Many other states in Nigeria in addition to Lagos and Federal Capital Territory, Abuja are in the process of incorporating ADR into their laws. Akwa Ibom state has already created hers with office at 34 C Line, Ewet Housing Estate in Uyo and with offices at Ikot Ekpene and Eket.

Multi Door Court House Program
This concept of multi-door court house can be traced to 1906 when Roscoe Pound (later Dean of Harvard Law School delivered a paper entitled 'Popular Dissatisfaction with Administration of Justice' at the Annual Conference of the American Bar Association. The paper explored solutions to the slow pace of the wheel of justice in America. In 1976, again at one of the Roscoe Pond Conferences, An Harvard Professor, Frank E.A. Sander delivered a paper entitled 'Varieties of Dispute Processing' in which he led the call for the establishment of a multi-door court house.[36] The concept relatively guarantees efficient, low cost-affair and expeditious resolution of dispute and it also presupposes that the courts should offer various services that best fit dispute being adjudicated especially in view of the reality that not all civil or criminal cases were best served by adversarial or court-centered procedure. The concept which was birthed in America has subsequently being nurtured, adopted and encouraged in the country and beyond as evinced in the number of several countries that have adopted it most especially those who share the common law heritage across the world.

A turning point for ADR in Nigeria would obviously be in June 2001 when the Lagos State Judiciary in collaboration with Negotiation and Conflict Management Group (N.C.M.G)[37] established the Lagos Multi-Door Court House (LMDC) as the first court connected ADR centre in Africa.[38] The centre was to provide three supplementary doors by which disputes can be resolved namely neutral evaluation, mediation and arbitration and by acting on the principles offered by its innovator Prof. Frank Sanders of the Harvard Law School. Many states[39] of the Federation have so far shown tremendous positive response in imbibing the ADR culture through the multi door court system even to the extent of making it mandatory for litigant in conventional courts to explore in deserving circumstances.[40]

The practice of Alternative Dispute resolution in Nigeria has the backing of the Nigerian constitution. Section 19(d) of the 1999 constitution states: 'Respect for international law and treaty obligation as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication'. Section 254C (3) as amended states: 'The National Industrial court may establish an Alternative Dispute Resolution Centre within the court premises on matters which jurisdiction is conferred on the court by this

[36] 'Multi-Door Courthouse Concept: 'Access to Justice'. A paper delivered by Hon Justice Theresa I. Obot at the 2013 Nigerian Bar Association Annual Conference, Tinapa, Calabar, Cross Rivers State.
[37] The brain child of Mr. Kehinde Aina (referred to as the father of Multi-door court house in Nigeria)
[38] http://www.ainablackson.com/poftermp/pdf cabc.drg/the multidoor concept the journey so far.pdf
[39] The concept has also been replicated in as much as 11 states
[40] E.g to however achieve efficiency and effectiveness in the exploration of ADR track offered by the LMDC, parties to civil disputes in Lagos state are now under an obligation to subject themselves to the ADR mechanisms first before resorting to litigation upon clear failure of the former. See Order 3 rule 11, High Court of Lagos State (Civil Procedure) Rules, 2012

constitution or any Act or Law' The ADR also has the blessings of The Arbitration and Conciliation Act (Cap 19, LFN 1990) as well as the Arbitration and Conciliation Decree 11 of 1988 and The Arbitration and Conciliation Act (Cap A. 18,) 2004. Order 19 of Federal High Court (Civil Procedure) Rules of Nigeria is also supportive of interventions in arbitral proceedings. The Government of Nigeria has also entered into an international agreement and treaty in respect of ADR. These are New York Convention (Recognition and enforcement of foreign arbitral award) 1958 and ICSID (Washington Convention) 1966. There have also been court decisions as regard arbitration awards. In the case of *Kano State Urban Development Board v. Fanz Construction Co.*,[41] the court held that the respondent is bound to pay the award made by an arbitration panel. Similar decision was made in *LSDPC v. Adold/Stan Ltd.*[42]

7. ADR in other Jurisdictions

England

As early as the Norman Conquest, legal charter and documents indicated that English citizenry instituted action concerning private wrongs officiated by highly respected male member of the community in informal, quasi-adjudicatory setting. In some instance, the king utilized these local forums as an extension of his own legal authority rather than mere formal king court, the king merely adopts the decision of a local but highly respectable lay person without ever reaching its merit of the suit creating the first form of arbitration. Another account[43] reported that arbitration existed before common law and in fact used as a means of dispute resolution far back as 1224. It developed as a means for merchants and traders to avoid court. The earliest recorded evidence recorded relating to a written law of arbitration in England dates back in 1698 with the passage of the Arbitration Act (It was to promote trade and render award of arbitrators more effectual). In the common law era, the first case in which Arbitration gained notoriety was in Lord Cothe's 1609 decision in *Vynior v. Wilde*[44] where agreements to arbitrate were first pronounced upon to be mandatory. The case of *Scott v. Avery*[45] was also indeed instructive and by no means shaped the evolution of ADR in England as it signalled a resounding endorsement of arbitral process in commercial transaction and statutory confirmation given in 1854 Common Law Procedure Act (one of the first modern effort at a comprehensive arbitration statute). At the end of the nineteenth century, England enacted the 1889 Arbitration Act which was in turn widely adopted throughout the Commonwealth. The Act confirmed the irrevocability of agreements to arbitrate future disputes while granting English courts discretion whether or not to stay litigation bought in breach of such agreement. Other legislations which have followed in the twentieth century include the Arbitration Act of 1950, 1975, 1979 and lately 1996 respectively.

The term ADR came to general use in the 1980, A practice direction relating to conciliation in family proceeding i.e. Practice Direction (Family Division: Conciliation Procedure) became operative from the 2nd November 1982. According to the statement, a pilot conciliation was put in operation from January 1983. The commercial court (founded in 1895) was also a vanguard in pushing for a procedural innovation via ADR hence the tentative adoption of experimenting with idea of encouraging parties to use one of the developing method of ADR such as Mediation and Conciliation as possible additional means of resolving an earlier stage of proceedings either particular issues arising in a case or the dispute itself. This encouragement took the form of practice statements such as Practice statement (commercial cases ADR of 10th December 1993), Practice direction 1995 by Lord Taylor of Gosforth, Practice direction 1996 by Sir Cresswell all which consolidated the use of ADR in commercial proceeding in the United Kingdom.[46]

Distinctively, unlike in other jurisdictions, in England, there has been diversification and versatile use of ADR from typically social-sensitive issues/business matters to domestic issues[47] such includes community mediation (to resolve conflict between person of the same community) , Neighbourhood mediation (to help in dispute within the local community, anti-social behaviour, boundary problem and verbal abuse), School Peer Mediation (It helps to settle quarrels among pupil like bullying and unkind behaviour), Victim-Offender mediation (for

[41] (1990) 4 NWLR (Pt N7) 1
[42] (1994) 7 NWLR (Pt 358) 545
[43] History of Arbitration and Grievance Arbitration in the United States, by *Robert v. Massey Jnr*, http://www.wvu.edu/-enten/deps/11rs/arbitration-history.pdf
[44] (1609) 77 Eng. Rep 595 CK.B)
[45] (1856) 5 H.L. CAS 809,853 (House of Lords)
[46]Doukas A. Mislelis (Prof), 'A.D.R. in England and Wales (A successful case of P.P.P' available on ,http:// www.academia.edu/262766/ADR-in-England-and wales-12-am'
[47]Prof. Doukas A. Mislelis, 'A.D.R. in England and Wales (A successful case of P.P.P' available on ,http:// www.academia.edu/262766/ADR-in-England-and-wales-12-am'

young offenders with first and second time offences).[48] ADR has also been taken to the cyber space with the advent of e-mediation to conduct online e-commerce or technology dispute resolution. This is done by using encrypted e-mail system as seen in the U.K. e-mediation (e-mediator.co.uk).[49]

Creation of bodies such as ADR chamber, ADR Group Fund, Association of Northern Mediators (based in Leeds), Centre for Effective Dispute Resolution (CEDR), Chartered Institute of Arbitration etc. has brought a whole lot of institutionalization to the ADR regime in England. Professionalism is also accorded priority through training and accreditation so also the attitudinal response of lawyers has incredibly changed.[50] Unsurprisingly, some disbelief have been expressed by parties in commercial cases that ADR may be unsuitable for them or that they have no faith in the process generally or that it is expensive even where order was made by court to that effect. This is certainly expected based on the evolving nature of ADR however ADR has developed considerably in England over the last few years and has acquired a distinct position in dispute resolution landscape and become increasingly significant in the business sector hence if the body language of the civil process is anything to go by, it has come to stay.[51]

United States

The history is chequered when it comes to the chronology of ADR in the America. Long before the white man ever arrived in what is now the United States, early native American tribes used arbitration (a spectrum of ADR) in settling disputes within themselves and other tribes. It is also on record that George Washington (U.S. first President) had an arbitration clause in his testamentary disposition.[52] ADR also became obtainable in commerce and trade existing in the early Dutch/British Colonial period of New York City. Pilgrim colonists avoided lawyers and court because according to them, it threatened their Christian harmony. When disagreement therefore occurs, a body of male members of the community would hear claims, determine fault, assess damages and ensure that the parties reconciled with one another, these informal arbitration were the norm.

The Patent Act 1890 was the 1st statute wherein congress expressly provided for an arbitration system of competing claims through the creation of an adjudicative board consisting of one member appointed by each patent applicant and another by Secretary of State. Later in the 19th century(1898 precisely), the congress consolidated on initiatives begun years earlier in Massachusetts and New York by creating authorized mediation for collective bargaining disputes ,examples of which are Board of Mediation and Conciliation for railway labour and Federal Mediation and Conciliation Services (FMCS) still operating up till today. [53] States began taking interest in systematic ADR as litigation alternative in the 1920s, over a dozen states passed modern arbitration laws, and even Congress enacted a federal cognate[54]. The key provision of the Federal Act include making agreement to arbitrate future dispute legally valid, enforceable and revocable only as any contract could be revoked, authorizing court to enforce awards, appointment of arbitrators and expediting arbitration where one party fails to more forward with agreement to arbitrate.

The above circumstances served as impetus for lawyers and entrepreneurs in 1926 to create the American Arbitration Association (AAA) which was to provide guidance to arbitrators and parties as to ADR methods and other time-tested procedures and this was to be achieved by development and promulgation of rules on proper method of arbitration. Over the years, ADR has commonly grown to be alternative to litigation in different facets as seen in 1970 when The Department of Health, Education and Welfare appointed as the administrator of the Age Discrimination Act 1975 to resolve claims of age discrimination in federal work places. The 1980s also did witness many universities and law schools incorporating courses and degrees in ADR related topics[55]. and this has led to the presence and existence of ADR in almost all levels of its legal profession just as top notch law

[48] http://www.youthjustice-board.gov.uk

[49] http://www.consensusmediation.co.uk.e-mediation

[50] Study conducted by CEDR showed when asked the question 'Do you use dispute resolution clause?' 73% said yes, 23% said no, 4% said I don't now see Attitude to Mediation (June 2001) at http://www.cedr.co.uk/lbrary/articles/CEDR_PCB_Survey.pdf at 27.

[51] Mistelis, Note 41.

[52]It basically states that 'If any dispute should arise from the wording of the document, that a panel of three arbitrators would be implemented to render a final binding decision and such decision should be seen as any decision of the Supreme Court of the United States' See Lord Mustill (L.J.A.) 'Arbitration: History and Background' (1989) 6:2J Int'/Arb 43 avalse at mustill 1989.pdf.

[53]Michael McMarnus & Silverstein B. 'Brief History of Alternative Dispute Resolution in the United States' available on https//cadmusjournal.org accessed on the 27th day of July 2014.

[54]This was known as the Federal Arbitration Act 1925

[55] Such as Harvard Program on Negotiation, Fordham Law School Dispute Resolution Program etc.

firms now recruit AAA-certified attorneys and retired judges who offer mediation, negotiation and arbitration services to individuals and businesses till today.

ADR has over the years achieved a great deal of institutionalization in America. This development is not far-fetched, there is now an extensive use of ADR in 35 states[56] now have offices of dispute resolution[57] not only that, All federal appellate court now have in-house ADR program. In Florida alone, over 113,000 cases were referred to ADR in 2001.[58] Public awareness has also witnessed sporadic increase as parties involved in number of cases referred to mediation by court now know at least one alternative to trial and many of them have firsthand knowledge through participation in that process. The media is also beginning to reflect and add to this awareness by incorporating reference and scene involving mediation in law related T.V. shows. To the lawyers, increased sophistication has been experienced just as some states now have ethical requirement that lawyers advise their clients on alternatives to litigation.[59] The court system had also witnessed more effective usage in terms of matching cases with dispute resolution processes through the multi-door courthouse concept and the designation and invention of new varieties of ADR to fit particular needs of disputes and parties e.g. one day jury trial for soft tissues personal injury cases (in states such as Phoenix, Arizona and Colorado). To the litigants, there has also been increased choice and expertise of providers to choose from, also noticeable is the shift in the culture of conception of court from its role as that of passive provider of trials, to an active problem-solving manager or as in some court, to a catalyst in communal change and conflict transformation. Court are beginning to embrace the concept of litigation as last resort rather than first resort at least in some type of cases. There is however seemingly noticeable challenges in the fact that, courts are totally deviating from their core values, because the introduction of ADR though allows the court to still resolve dispute and interpret law, but in doing so, they must pay attention to emotion instead of reason, be concerned with enhancing relationship between parties, pay no strict attention to due process, or consistent outcomes or legally just result and be preoccupied with speedy resolution. The skepticism can be brought to a halt by eliminating possibilities of coercion in ADR processes, providing more through ADR education for litigants and attorneys, improvement in program quality control with training in ethical standards and use of performance based measures of competency.

Australia

In Australia, the Australian Centre for International Commercial Arbitration (ACICA) established in 1985, its objective is to promote and facilitate the efficient resolution of commercial disputes in Australia and internationally by arbitration, with the aim of delivering expediency and neutrality of process, enforceability of outcome and commercial privacy to parties. ACICA is a signatory to co-operation agreements with over 30 global arbitral bodies. There are types:

(i) Facilitative – where a dispute resolution practitioner assist the parties to a dispute to identify the dispute issues, develop opinion, consider alternatives and try to reach an agreement about some issues or the whole dispute.

(ii) Advisory – Example of advisory include: case appraisal, conciliation, and neutral evaluation.

(iii) Determinate processes – include mediation, conciliation, facilitation and facilitated negotiation. Negotiation – for example lawyers and agents.

(iii) Permanent Court of Arbitration (PCA).

(iv) United Nations Commission on International Trade Law (UNICITRAL).

India

India is the most populated democracy in the world. The federal constitutional republic consists of a multi-ethnic society where more than 400 languages are spoken. Despite various autonomous arbitral bodies and provisions for arbitration and conciliation for particular categories of cases (such as labor and family), litigation in India continues to rise. Since independence, several governmental committees have advocated for reduction in court debts, including judicial education to enhance the capacity of judges in order to improve the quality of their output. The Legal Services Authority Act of 1987 established the LOK ADALATS, throughout the country, which helped settle or otherwise dispose of a significant number of cases. The Supreme Court approved the Civil Procedure Alternative Dispute Resolution and Mediation Rules in 2003.A judicial mediation system commenced in September of 2005 in the Tis Hazari District Court, with six trained judicial officers assigned one day per week, to deal with mediated cases. The initial success led to establishment of the Delhi Mediation Center, which currently has four working centers at District Courts in Tis Hazari , Karkardooma, Rohini and

[56] (as at 2003)

[57] Senft L.P. & Savage, C.A. 'ADR in Courts, Progress, Problem and Possibilities' Penn State Law Review, the Dickson School of Law, Volume 108 2003, Number 1.

[58] Florida – Mediation and Arbitration Programme: A Compendium (15th ed. 2002).

[59] E.g. Rule 2.1, rules of Professional Conduct of Colorado.

Dwarka and Saket. Each center is manned by a senior judicial officer of the rank of Additional District Judge, who administers the center and examines and assigns the cases for mediation to the mediators.[60] The types of ADR process in India includes; Tribunals in India, Civil Procedure Code, Conciliation and Mediation, Arbitration and Conciliation Act, 1996, Lok Adalat and Judicial Arbitration.

8. Advantages of Alternative Dispute Resolution (ADR)

It is not in doubt the increase in the level of the acceptance and adoption of ADR in Nigeria and countries world over. This trend is on account of the comparative advantages ADR enjoy over other means of dispute resolution with particular reference to courtroom- litigation. Some of these advantage(s) are discussed extensively in this section:

Cost: The cost of resorting to the spectrums of ADR is relatively small in terms of personnel, financial implication and lost opportunities[61] when compared with other dispute resolution methods. For example drawing from experience in England, it was reported that between 2002-2003, over £6m was saved due to their growing culture of ADR activity in government departments[62] Another report[63] also stated that since 1990, 406 companies saved more than $150 million in legal fees and expert witness costs by using litigation alternatives in cases with an aggregate of over $ 5 billion in dispute.

Speed: Dispute when brought under the ADR regime can be resolved as swift as possible in order to forestall any form of distraction or stress by parties as well as avoid undue delay whereas in court room litigation, matters can take several years to be concluded most especially if it goes on appeal. A sad reality can be found in the survey of cases completed by the Supreme Court of Nigeria between 1999 and 2005 by the Lagos State Ministry of Justice[64] where it was discovered that it took an average of:

- 18 years (from year of commencement) to finalize land cases
- 14 years (from year of commencement) to finalize other civil cases
- 10 years (from year of commencement) to finalize criminal cases

With ADR processes however, such as Negotiation and Mediation, such disputes will be nipped in bud within the shortest time possible[65].

Independence: ADR affords parties opportunities to exercise control in how things are done and by implication decide their own fate. This is showcased by parties' prerogative to decide the appropriate forum which best suit their disputes or select the third party/neutral/arbitrator(s) of their choice by so doing, importance is also paid to expertise and skill of the arbiter/umpire in order to get the best result possible especially when pitted against litigation where parties' choices are limited by complex legal principles, terminologies and procedures and above all, parties are left at the mercy of the judge and jury (where applicable). This makes parties feel totally estranged in determining the individual who will see to how their grievances could be properly heard and decided. That said, some ADR mechanism such as arbitration in some respect circumscribe parties' choices, furthermore, in the process of choice-making, time may be wasted and undue delay occasioned.

Wide Range of Possible Outcomes:[66] ADR by nature avails parties wide range of different creative and innovative solutions generated based on the effective and efficient jaw-jaw process. On the converse, Litigation is anchored on predictability of outcomes as parties have fixated mindset as to the possible outcomes which invariably are going to be either win/lose.

Informality: ADR is not strict senso susceptible to rigid, hard or cast in stone set of rules, principles or precepts as it required more or less no formal pleadings or extensive written documentation or undue technicalities. It is typically based on equity just as are its principles and processes while on the contrary, litigation is basically is hinged on the uniform application of legal standards fashioned out to implement change in legal/social norms. Informality of ADR is further evinced in the flexibility obtainable in the disclosure of information which is relatively tied to no rigid principle which practically makes it devoid of any enormous burden of proof.

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[60] G.C. Kabi, International Commercial Arbitration in India – A legal perspective.

[61] Akeredolu A. (Mrs.) *'Mediation: What is and How it Works',* The Jurist, Vol. 8, (2011) pg. 46.

[62] Partington M. (Prof.) 'ADR: Prospect and Challenges' being a lecture of the Academy of Experts on 22nd October 2003 pg. 6.

[63] Pollock E.J. (1993). Mediation Forms Alter the Landscape, Wall Street Journal, March 22 B1.

[64] Cited in 'Alternative Dispute Resolution', LAW 517, Course note of the National Open University of Nigeria, School of Law, 2011, pg. 10.

[65] Popular reference is made in Nigeria to a ground breaking testimony about the effectiveness of ADR in a land dispute involving a former Vice President which was resolved within a day having lingered in the court for over 17 years.

[66] Sime S. et al Op. cit pg. 14

Confidentiality: Often times in commerce and trade, data and information such personal contacts, business strategies cum solutions, trade secrets, or innovative plans deserves utmost protection against foreseeable negative exploitation or abuse thereby causing collateral damage. ADR mechanisms take cognizance of this hence the incorporation of standard confidentiality clauses in different ADR agreements as well as its observance during proceedings. This is unlike litigation, where the often quoted ideals such 'seen to be done', 'public interest', 'fair hearing' breed unnecessary publicity and unsolicited violation of privacy.

Satisfaction: One of the core key targets of ADR is to ensure satisfaction of parties with the processes and most importantly their outcomes. A writer[67] noted that it has 88% satisfaction level and people are happier with a mediated result because it is their result. In litigation, a party's satisfaction is not guaranteed as judgment even though given in his favour, may have failed in part.

Problem Solving Approach: ADR is centered on finding an amicable resolution to disputes. It therefore takes cognizance of the prospect or chance of a future working relationship between parties in resorting into a problem-solving approach rather than apportioning blame/guilt or embarking on endless fault finding .This principle essentially leads towards a win-win situation/outcome with less acrimony and hostility which litigation by nature, presupposes.

Promotion of easy access to Justice: The current realities in the Nigeria Legal System shows that access to justice is fast becoming a mirage especially in the face of many bulwarks facing the judiciary such as congestion, underfunding, corruption, inefficiency etc hence as revealed by the former Chief Justice of the Supreme Court that in the 2010-2011 legal year, only 163 cases including 78 judgment and 85 motions were disposed off while 1,149 civil appeals 58 criminal appeals, 177 motions were still pending before the apex court. He went on to state that even if the full constitutional complement of 21 justices of the Supreme Court were to be in place, it would still take several years before the backlog would be cleared.[68] From these mind-boggling statistics, it will only be rational to seek complimentary ways of accessing justice which lies outside the court system. As ADR is peculiarly known for being relatively fast, quick, convenient and less formal, Individuals & Companies are more inclined to have their disputes settled amicably through it rather than be subjected to the rigours.

9. Disadvantages of Alternative Dispute Resolution

It is also pertinent to point out the noticeable demerits of ADR as a mechanism in dispute resolution.[69]

(a) ADR doesn't produce precedent, each case is taken and decided by its own merit, ADR decides no legal norm or establish natural standard neither does its processes promote a consistent application of legal rules. This pattern is touted to breed inconsistence and incoherence unlike the established and time-tested principle in litigation such as judicial precedent/stare decisis.

(b) Another low point of ADR is its perceived difficulty in correcting systemic injustice e.g. violation of human right or discrimination. It is also believed that settlement using the ADR has no educative, punitive or deterrent effect on the population in other words, the issue of public policy is not central to its adoption. Comparatively, litigation is believed by proponent to give priority to the social/psychological effect of its decisions on the society.

(c) ADR unlike litigation does not apply to criminal causes or matters save the simple offences such as assault.

(d) ADR in the absence of effective management or proper selection may bring additional expenses. With parties or lawyer failing to do the necessary, the process may hit a brick wall and by so doing, the case may still go ahead to trial, meaning there will be increased expenses and additional delay.

(e) ADR intervention is also believed under the guise of compromise and concession to reduce chances of a party getting a satisfactory remedy hence it is not unusual to see a party with a strong case preferring to litigate same in court so as to achieve a full realization of potential of the case.

(f) The cost effectiveness of ADR has however been thrown into doubt especially where parties fail to agree and still go on to litigate or using a spectrum like arbitration where huge costs may be expended on personnel, logistics and other over-head expenses.

10. Comparative Analysis

The use of ADR in Nigeria like other developing countries is an emerging trend. It is yet to be fully ingrained into the legal system though concrete efforts are equally being put in place to give ADR a pride of place in the

[67]Laura Prosser Davis, *'Alternative Dispute Resolution'* in A.O. Obilade and Gloria J. Braxton (eds) Due Process of Law, 1994 pg. 165.

[68]D. Musdapher, *'The Nigerian Judiciary: Towards Reform of the Bastion of Constitutional Democracy'* Fellows' Lecture Series, Nigerian Institute of Advanced Legal Studies, Lagos, 2011.

[69] Brown S, Cervenak C & Furman D. *'Alternative Dispute Resolution Practitioner Guide'* . 21.

justice administration system across the country. With case-management and fast tracked justice delivery (peculiar to ADR) being embraced by various courts across Nigeria through the rules of practice and procedure[70] as well as the establishment of different multi-door courthouses across the country, it is only a matter of time before ADR becomes fully adopted like other countries such as England, U.S.A., Australia etc. Historically, in Australia Alternative Dispute Resolution has largely been perceived as a non-judicial function. Mediation is the main form of ADR used in Australian Courts (Victorian). The Victorian courts refer cases to conferences, which are normally pre hearing conferences, conciliation and sometimes arbitration. Mediation can be followed voluntarily, by the order of the Honourable Court and or existing contractual agreement. The Supreme, the Magistrates and the Country Courts have the right to order any part of the proceeding or all of the proceeding to mediation, with or without the consent of the parties. Alternative dispute resolution in India is not new and it was in existences even under the previous Arbitration Act, 1940. The Arbitration and Conciliation Act, 1996 has been enacted to accommodate the harmonization mandates of UNCITRAL Model. The Acts which deal with Alternative Dispute Resolution are Arbitration and Conciliation Act, 1996 and the Legal Services Authorities Act, 1987. Section 89 of the Civil Procedure Code, 1908 makes it possible for Arbitration proceedings to take place in accordance with the Acts stated above.

11. Conclusion

Being private in nature, parties to an arbitration process require the courts to duly enforce the arbitration agreement and its awards. However the reality is such that without support from the courts the process can in no way be effective, this therefore explains the reason certain countries do not regard the process as attractive, the basic reason being that the courts do not regard arbitration as a means for the resolution of disputes. Being a contractual wish of the parties, the courts are usually duty bound to adopt it not necessarily as a means for the decongestion of the courts but as a necessary adjunct of the entire legal system. The implication therefore being that an arbitral award will be final conclusive and binding on the parties, though in order to ensure that such a method of settling disputes is effective, assistance is ordinarily given to machinery of law to ensure that the award can be enforced. Alternative Dispute Resolution is a mode of resolution of disputes through arbitration, conciliation, mediation which provides an alternative route for resolution of disputes instead of resolution of disputes through courts. The principles of ADR are successfully adopted in the Indian Legal System as an alternative to the justice delivery system. With the advent of the alternative dispute resolution, there is new avenue for the people to settle their disputes. Comparatively, ADR has grown to be a culture in U.S.A. and England and its domino effects has led to a rapid change and even development in the economy of these selected jurisdictions. Suffice to submit that ADR does not only provide a strategy for dispute resolution, but it also act as catalyst for economic emancipation, legal transformation, national growth and development in any clime that puts it into effective use.

[70] Order 16 Court of Appeal Rules 2011, Order 25 High Court of Lagos State (Civil Procedure) Rules 2012.