ALTERNATIVE DISPUTE RESOLUTION STRATEGIES FOR SUSTAINABLE DEVELOPMENT IN AFRICA: INSIGHTS FROM NIGERIA

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Abstract: Conflicts especially in Nigeria shall be explored in the course of this paper. Also the concept of sustainable development, conflicts and contradiction in the drive for sustainable development along with approaches to ensuring sustainable development in Nigeria shall also be examined. We shall dwell further on reported cases of conflicts in Nigeria and the incorporation of alternative dispute resolution into the framework for sustainable development. And at the Economic and social development in Africa has been hampered by a number of interrelated issues. These include high cost of credit, low level of education and the imbalance in a rapidly globalising world. There are also many cases of conflicts, almost in the magnitude of organised terrorism. Media reportage has not helped issues either. There is therefore the need to seek alternatives in managing these conflicts. It is this desire that provides motivation for this paper. The conceptual framework of sustainable development as well as the provisions of Alternative Dispute Resolution in dealing end of the paper it shall be proffered that alternative dispute resolution is a better remedy for conflict resolution. We are optimistic that the results will provide viable alternatives to resolving conflicts and thus ensure sustainable development in the continent.

Keywords: *Alternative Dispute Resolution, Economic and Social Development, Sustainable Development, Conventional Legal Approaches*

Introduction

In recent times and following from the prodding of the United Nations Development Programme (UNDP), the whole world had been introduced to the millennium development goals (MDG), the aim of which is to facilitate sustainable development up till 2015. Many nations have also localised these goals. For instance, in Nigeria, there has been the vision 20-2020 agenda which is intended to position the country among the 20 largest economy by the year 2020. The lofty ideals of these projections appear to tally with the practice of development plans or in some emerging economies, rolling plans. These ideas will produce expected result in an atmosphere of peace created by a legal framework but may not rely on litigation. In the course of this paper, we shall explore the different variables that make for development. We shall take as our stand point, the operations of alternative dispute resolution. We shall also examine the procedures and strategies for engendering sustainable development by selected corporations in Nigeria the essence of

which is to examine the conceptual frame work of conflict how it affect sustainable development and how to manage it using alternative dispute resolution.

The Concept of Sustainable Development

Wikipedia an online encyclopaedia described sustainable development as a pattern of resource use that aims to meet human needs while preserving the environment so that these needs can be met not only in the present, but also for generations to come. The concept of sustainable development was first given recognition by the B*rundtland Commission* in 1987, where it was defined in its report as *development* that "meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts; The concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given; and the idea of limitations imposed by the state of technology and social organisation on the environment's ability to meet present and future needs. Human environment can be likened to wealth which runs out if not properly invested. Sustainable development can also be conceptualised into three major parts namely; environmental sustainability, economical sustainability and social-political sustainability. Other definitions of sustainable development have been identified one of which is defining it through its goals, i.e. what it seeks to achieve. For example there has been the millennium declaration held in

New York where the millennium development goals were agreed upon with 2015 given as the time frame for its actualisation. The millennium development goals which can also be termed sustainable development goals reflected the equilibrium between the economical, social-political and environmental sustainability and they include:

1. Poverty Eradication; trying to drastically reduce the number of people living in abject poverty by the year 2015 by reducing the population of those living on less than a dollar a day by half.

2. Universal Education: Achieving universal basic education for all by the year 2015.

3. Gender Equality: Promoting gender equality and the empowerment of women by eliminating gender disparities in primary and secondary education by 2015.

4. Reduced Mortality Rates: reducing infant and child mortality rates by two-thirds and maternal mortality rates by three-quarters by 2015.

5. Reproductive Health: providing access to reproductive health services to all individuals of appropriate age by 2015.

6. Environment: Implementing national strategies for sustainable development by 2005 to ensure the current loss of environmental

resources is reversed globally by 2015.

Another criterion used by Kates, Parris, and Leiserowitz. (2005), is to define sustainable development by the use of indicators i.e., how it is measured. They posited that despite sustainable development creative ambiguity, efforts made to define it have often come in the forms of indicators combining global, national and local initiatives and how to measure the indicators, knowing what to be sustained, developed and the duration for such. Other people have equally used indicators to define sustainable development. Former USA President, Harry S. Truman, in the late 1940s used economic indicators like the Gross Domestic or Gross National Product (GDP and GNP), to define and assess the level of development. It was observed that the higher these economic indicators, the higher the level of development attainable (Segschneider, 2002). While the third variable identified for defining sustainable development by Kates et al, is values. According to them, values as a mode of defining sustainable development have diverse meaning ranging from being an expression of or beliefs in the worth of objects, qualities or behaviour. Values have been held to overlap with goals and indicators earlier discussed but they do not include the full range of all the values supporting sustainable development. The last and most important aspect of defining sustainable development asserted by the above mentioned writers is the practice of sustainable development itself. In this light,

sustainable development includes efforts made at defining the concepts establishing goals, creating indicators and asserting values and those dedicated to improving human conditions amongst others. Sustainable development therefore, is the discipline of consuming natural resources while having future generation in mind. This ability is closely related to conflict of needs amongst individuals. So the issue now becomes how to handle these conflicts of needs. Meeting the needs of the future actually depends on how well the present generation is able to handle social, economic, and environmental objectives or needs when making decisions today as this can help prevent an "unsustainable situation" which occurs when natural resources is used up faster than it can be replenished. Sustainable development therefore requires that man uses natural resources at a replenish able rate. The practice and the idea are usually in conflict.

Conflicts and Contradictions in the Drive for Sustainable Development
Conflict is one of the most significant threats to sustainable development inaddition to poverty alleviation and world security. However, there is a close relationship between development and conflict. Development can exacerbate violent conflict or contribute to sustainable development. And conflicts, if not properly managed can hinder the process of sustainable development. Hence it is necessary to try and resolve conflicts if development is to be attained. It should be borne in mind that conflict is a natural and

inevitable part of all human social relationships. As a term, it has no single and clear definition. It occurs at all levels of society ranging from interpersonal, family, tribes to national and even international levels. In other words, conflict is everywhere and it usually appear in the forms of tension, divergence of opinion within a group, power, prestige, verbal or physical abuse, disagreement, incompatibility, annoyance, interference, or rivalry. It can occur when two or more individuals or groups have diverse interests and incompatible goals, and they pursue these interests and goals intensely with the desire to gain advantage or defeat one another this often involves one or both sides consciously interfering with the efforts of the other side to achieve its goals. However, conflict can also arise when individuals or groups are trying to cooperate in attaining a common goal but have divergent opinions and beliefs about the best way of action doing so. Conflict can range from "friendly" competition to extreme violence. Conflict is "the process which begins when one party perceives that another has frustrated, or is about to frustrate, some concern of his" (Thomas, 1976). In other words, conflict is inevitable whenever human element is involved. Conflict can also be viewed as a process that begins when an individual or group perceives differences and opposition between oneself and another individual or group about interests, beliefs or values that matter to them (De Dreu, Harinck, & Van Vianen, 1999). How individuals respond to conflict issues depends on their concern for their own outcomes and for the opposing party's outcomes. And any conflict that is not properly managed can degenerate into dysfunctional conflict. Thus it can be seen from Deutsch, (1973), that there are conflicts whenever incompatible activities exist and through these conflicts, attaining initial goals becomes extremely difficult if not impossible.

Still on conflict, Donohue and Kolt (1992), described it as a situation in which interdependent people express their disagreement in their desire to satisfy their needs and protect their interest. Study Circle Discussion Guide (2003) has opined that a line has been drawn between dispute and conflict for a clearer understanding of the gravity of conflict to sustainable development and that though the terms are used interchangeably, there is a difference between them. While conflict includes coercion and aggressive behaviour, dispute involves disagreement on minor issues, which may or may not have elements of destructive or extreme action. All conflicts are disputes, but all disputes are not Conflicts.

Conflict has been said to be dynamic as it has the ability to pass through different escalating stages. It starts with people perceiving that their interests have been negatively affected or is about to be negatively affected. If there is no knowledge of a conflict, then it is generally agreed that no conflict exists (Vandeveer & Menefee, 2010). These feelings of people believing that their interests have been negatively affected or

about to be negatively affected lead to tension which can result in distrusts and fear and when become overt can lead people to indulge in aggressive defensive behaviour and thus result in conflict which moves towards the outcome of either a win-lose situation or reach an agreement. They can also derive from issues such as misunderstanding, communication failure, personality clashes, differences in goals and values among leaders, lack of cooperation, abuse of power, scramble for limited resources, non-compliance with rules and so on (Ogbulogo, 2005). Other sources recognised by Study Circle Discussion Guide (2003) are: Dispute over sharing of property or ownership, Differences in values and beliefs between communities, Personal interests- love and marital affairs, Insecurity- differences of wealth and power, Power domination-control and domination over one another, Power struggle-contest between candidates or parties to win election. While others are; Mistrust- suspicious of one another, Injustice- exploitation by economic and other means, Denial of rights to resources, religious practices, political campaign and consciously and deliberately created conflict. It can therefore be seen that the difference among societies is not actually whether conflict exists, as this is already well founded but the issue becomes how to manage it because the management of it can either lead to violence or open opportunities for innovation and positive change. But in most cases, the process of development almost invariably leads to conflict, as

resources are reallocated according to new priorities and relations between social, ethnic or religious groups are altered (Cravero & Kumar, 2005).

Reported Cases of Conflict in Nigeria
There have been various cases of conflict in Nigeria since her independence in 1960. The Niger Delta crisis in Nigeria, for instance which started as some form of agitation for resource control has escalated to higher proportions. There are also other centres of tension in the country which began from very fundamental agitations. The net effect of disputes and conflicts in Nigeria and other African nations is the upsurge in insecurity which threatens human development. From available media reports, there is massive wastage of human and natural resources which should have been channelled to the development of these regions. Incidentally, conventional legal approaches have not achieved maximum results in stemming the wave of conflicts in Nigeria and many African states. Media reportage has not helped issues either. For the purpose of discussion, some of these conflicts have been categorised into land/boundary cases, resources control cases and religious cases.

Land/Boundary Dispute
Land is regarded as a capital asset which serves as an unlimited reservoir of sustenance and is seen as the core of human livelihood and survival. It has been held that land is very much important developmental process and satisfies the basic needs of mankind

which include farming for food and building for shelter (Egute, Ode & Kur, 2004). Communities in Nigeria have persistently fought over land and boundary adjustment resulting to violent killings and destruction of properties. In 2010, there was a bloody clash between members of Umumilo Village and their counterpart in Abudum Village in Anambra state, Nigeria over alleged destruction of farm crops and economic trees worth a large sum of money, on a disputed portion of land, as well as the removal of an ancient boundary hedge demarcating the two communities. It took the intervention of armed police men to restore calmness to the villages (Odogwu, 2011). Also in Abakaliki of Ebonyi state in Nigeria, the communal war between Igbagu, the border town between Ebonyi and Ukelle people of Cross River State according to Uka (2009) claimed over 100 lives in 2009. The figure according to him is beside the other hundreds who died at the peak of the war about three years ago. The federal government of Nigeria in trying to arrest the continual land and boundary dispute in some communities in Edo and Delta states gave its Boundary Commission a two-week ultimatum to submit its report on the resolution of the dispute involving the communities. These areas had been known to be involved in this fight for a long time now which resulted to the involvement of the boundary commission in 2002. But the commission has however not be forth coming as the fight has been escalating over the years. Also the government has been called upon to

intervene in the Benue and Nasarawa crisis between farmers and Fulani herdsmen. The crisis had resulted in maiming, killing and displacement of thousands of people due to dispute over farming and land grazing. (Ovuakpori, 2011).There is scarcely any community in Nigeria which has not been involved in boundary and communal disputes. Boundaries as asserted by Jacob, (2010) are made for human beings and should not be a matter of life and death. The conflict can be resolved amicably if the parties are willing to find a peaceful solution to the dispute instead of resorting to violence.

Resource Control Cases
The Niger-delta region in the southern part of Nigeria has been the most popularised site of a people's struggle for self-determination. The Niger-delta conflict attracted national attention in 1966 and this conflict has been on the increase since 1990. It has graduated from a dominantly peaceful agitation to violent struggle conducted by the youths. These crises have been said not to have anything to do with economic crises in spite of the decline in income, unemployment, environmental degradation, poverty and insecurity in the area. But a fundamental political crisis imbedded in an agitation for the right of the people not to control their natural resources but to have a say on how the resources are to be exploited, the proceed shared and used in a way that will bring development to the people and not leave them to suffer the unpalatable hazardous effect of oil pollution as has been done by the

Nigerian government presently in Niger delta. The Nigerian civil war fought in 1967-1970 was also ascribed to this struggle for resource control which later necessitated to the administration then creating 12 more states to stop the succession bid of the Rebellist, Odumegwu Ojukwu. (Omoweh, 2010).So it can be seen that what started initially as community agitation against degradation of it environment as a result of the oil pollution has now transformed to a full blown national crises hampering the development of the entire country been that Nigeria's may source of revenue is the exploration of crude oil. The

Conflicts in the Niger delta has been categorised into three which are; conflicts between the Federal Government and the communities; between communities and the oil companies and within and between the communities themselves. Whilst the Federal Government–Community Conflicts comprises the Niger-delta on its own and in collaboration with other ethno-political groups, protest against the laws and policies on oil exploration and revenue distribution set up by the Federal Government this also include the misuse and abuse of power used by the government in trying to protect the oil companies, the second, the Community–Oil Company Conflicts involves disagreements between local communities and the multi-national companies over compensation paid for damages as a result of the oil explorations and the attendant pollution to the environment. While the Host communities put forward claims that the exploration carried

out in their communities negatively affect their land thereby directly affecting their means of livelihood and demand for compensation and other benefits, the Multi-national companies on the other hand either out rightly dispute such negative effect or disagree on the amount of compensation to be paid. Examples of such conflicts have been stated to include those of Umuechem vs. SDPC (1990), Ijaw vs. Chevron (December 2000), Elelenwo vs. Shell (2000), and Agalabiri & Abadiorma vs. SPDC (July 2000). Lastly, the Inter and Intra-community Conflict are struggles within and between different communities as a result of benefit that comes from the exploration of the oil. Examples of such conflict have been said to include struggle over the ownership of oil wells and where oil pipes are located, Ogbogoro War (1998), the Obeakpu [Oyigbo] Conflict (1999), the Bille-Ke Conflict (2000), the Nembe War (2000) and the Olomoro-Oleh Conflict (2000). These conflicts have become serious national issues and have attracted international interests as well .The origin of the whole conflict has been attributed to the insensitivity of the government and oil companies to the underdevelopment and the suffering faced by the people of the region which in turn have resulted to serious upheavals with youth taking to possession of illegal arms and other criminal activities (Osaghae, Ikelegbe, Olarinmoye & Okhomina, 2007).

Religious Conflict

Religious crisis have been the most frequent cause of crises in Nigeria today. It started around the 70's and till date it still persists. Over fifty religious crises from 1977 till date can be counted in Nigeria (Alabi, 2010). The question is what can be responsible for the continuous religious crisis in the country, especially in the Northern part? Sadjere, (2010) *proposed three factors that could be responsible for such violence as* Intolerance, Economic Issues and Politics. Religious crises have been of serious concern to all successive government in Nigeria. It has been said that the Government has not used any serious approach in finding lasting solution to this important issue (Sadjere, 2010). And because no serious measure has been undertaken by the government to resolve the crises, it has escalated over the years. Creeping (2010), asserted that some group of Fulani Muslims slaughter about five hundred Christians in cold blood in three farming villages near Jos, Plateau state. The victims included many women and children killed with machetes by these rampaging Fulani herdsmen. Also several houses were destroyed in the process. This kind of killings has been going on since 1994. However on the international scene, Anonymous (2009) asserted that efforts have been made to solve this problem *as these* frequent religious clashes have become a source of concern especially to the United States government. The International Religious Freedom Caucus in the US Congress has shown interest in these religious crises especially in Jos, Bauchi and Gombe by closely monitoring the events there. Also, Nigeria was chosen as one of the countries represented at a forum that took place in Washington, D.C. the term of the forum was tagged "Evangelicals and Muslims: Conversations on Respect, Reconciliation, and Religious Freedom,". It was organised by the Institute of Global Engagement (IGE) and co-sponsored by the Prince Alwaleed Bin Talal Centre for Muslim-Christian Understanding at Georgetown University in Washington, D.C. An Imam and a Pastor from Nigeria were invited as panellists to the event to speak on "Reconciliation". The purpose of the forum was to focus on the deep theological, cultural, and political differences between the two religion and the common areas of agreement so as to bring about reconciliation.

Approaches to Ensuring Sustainable Development in Nigeria

Nigeria, like many other countries, confronts a number of internal conflicts. Since her independence in 1960 it has survived a civil war and a series of military regimes that have given rise to many conflicts. Instead of finding solutions to the courses of these conflicts, the military leaders resorted to the use of brutality to suppress the conflicts. As earlier stated, contemporary literature have recognised three components of sustainable development which are environmental sustainability, economic sustainability and sociological sustainability. There have been speculations that, even within this simplistic perspective;

programmes as sustainable development set limits on the development work. For instance, the demand to reduce pollution by a number of roundtables and protocols would mean that the developing nations would have some limitation in their production capacities. Another area in which sustainable development limits developing nations is the question of population control (Aguire, 2002 & Boulanger 2008).

In Nigeria, different strategies to sustainable development have been tied to the dictates of the international community especially the promoters of donor agencies. In the 1990's, the United Nations Fund for Population Activities was in the vanguard of ensuring that contraception was appropriated by the larger Nigerian population. Just about the same time, the United Nations Fund for Women Empowerment was helping with issues of gender equality. At the economic level, there have been programmes aimed at empowering the rural folk. There has been for instance, the National Poverty Eradication Programme (NAPEP) the aim of which has been to create sustainable employment for members of the population who had limited abilities and opportunities. Perhaps the best organised programmes for sustainable development would be found in the form of social responsibility performed by corporate bodies in the country. It is common place to identify structures put in place by banks and oil companies in different parts of the country.

Incidentally, and ironically too, those donations have become sources of controversy and conflict because of issues of communication. In a number of cases, the locations of donated amenities have sparked off some conflict. There was the very tragic and destructive crisis in the Warri Area over the palace built for a traditional ruler by an oil company in the Niger Delta. (Okidi, 2003), There have been calls for African countries not to depend on the promises of donor agencies and other international organisations for the blueprint and strategies for sustainable development. Okidi (2003), for instance urges African governments to look more inward and not hinge their hope on the promise of extra dollars from the western world. This call will require some understanding of the internal mechanisms of the African mind, including strategies for peace building.

At the three levels of governance in Nigeria, sustainable development has been pursued since 1999, at the inception of the Third Republic through the National, State and Local Economic Empowerment and Development Strategy – NEEDS, SEEDS AND LEEDS. Onakuse and Lenihan (2007) have described Nigeria's policies on sustainable development as copy and paste-from existing templates, without regard to the socio-cultural peculiarities they needed. The authors buttress their points with a long list of programmes – Structural Adjustment Programme (SAP), Poverty Reduction Strategy (PRP) the National Economic

Empowerment and Development Strategy (NEEDS) and the Directorate of food, Road and Rural Infrastructure (DFRRI), the National Agricultural Land Development Authority (NALDA). The River Basin Development Authorities (RBDA's) the Strategic Grains Reserves Programme (SGRP), Agricultural Development Projects (ADP), National Directorate of Employment (NDE), the Mass Mobilization for Social and Economic Reconstruction (MAMSA) National Economic Reconstruction Fund (NERFUND) and the Community Action Programme for Poverty Alleviation (CAPPA).

In spite of this plethora of strategies, it is still hard to identify a strong approach to sustainable development. Onakuse and Jenihan (2007) have argued that these various reform efforts have been a result of the wide gap between the government and the people. They also pointed out that private sector-led reforms have been quite impactful such that they could be incorporated into the national development effort. It is this impetus that makes us to explore some of the results of the intervention by the corporate world in Nigeria. In announcing its Social Responsibilities profile, Total Nigeria describes its effort as an attempt to bring basic necessities of modern life – energy, water supply, roads and electricity to people throughout the country as well as important community infrastructure such as modern markets and civic centres. The company listed a number of projects it has undertaken – Egi Independent Power Project, Road

networks linking local communities, Award of Scholarships, Skills Acquisition, Provision of Vsat and Internet Facilities to the Rivers State University of Science and Technology, Provision of mobile telecommunication facilities to the host community, launching of microcredit scheme and the provision of an e-library and an electricity generating set to the Rivers State Polytechnic, Bori. The same pattern of infrastructural development has been observed in the operation of other oil companies in Nigeria. The critical question to ask is, if the local people were considered in the selection of projects and amenities. The answer appears to be on the negative in the light of a submission by Kingston (2011) which quotes a 1998 report by the United Nations Special Rapporteur's report accusing Nigeria and Shell of violating human rights and failing to protect the environment. This reported failure is at the centre of sustainable development. It would appear that the intervention protocols of even the organised private sector has not followed a clear path of project implementation-needs analysis, problem identification, project planning, project design, training, project evaluation and celebration.

In all this, there is the critical factor of consensus building. Or how else can we explain the full blown crisis in the Niger Delta There has always been call for tolerance, peace and unity among all religious groups, but the situation has not changed appreciably.

Incorporating Alternative Dispute Resolution into the Framework for Sustainable Development

Seeing that conflict is inevitable in today's world and that it is a continuous process, there is the need to find out how to work out amicable resolution to it without letting it escalate. So conflict resolution as provided by Wikipedia (2011), is therefore the process of finding a wide range of methods of addressing sources of conflict - whether at the inter-personal level or between states - and of finding means of resolving a given conflict or of continuing it in less destructive forms than, say, armed conflict. The conflict situations in Nigeria today particularly in the Niger-Delta have posed serious challenges to sustainable development not only in Nigeria but also at the international scene. The devastating effects of these conflicts such as killings, agitations for resources control, kidnappings of innocent citizens and foreigners' alike, political protest, destruction of lives and properties, ethnics and tribal violence have become a source of major concern to the government. Most of these conflicts arise as a result of social-political, economic, religious, cultural, or ethnic and environmental differences. Ethnic conflicts in Nigeria have been at the instances of the large majority ethnic groups like the Afenifere, (for the Yorubas) Ohaneze (for the Igbos), Arewa Consultative Forum, (for the Northern part of the country) and the Egbesu Boys (for the Niger-Delta region). These groups demand a wide range of issues including political zoning to resources control. (Ogbulogo 2011).

Attempts at resolving these conflicts have been under the institutional and legal framework of Nigeria. It could appear as if this approach has yielded little or no fruit going by the increase in violent conflicts going on in the country. For example following the recently concluded May, 2011, election in the country, there was a serious unrest in the northern part of the country resulting to killings of innocent citizens including members of the country's National Youth Service Corps. Even the amnesty program for militants in the Niger Delta has been halted as a result of its limited success and an uneven response from the militant groups. (Puryear,2011) Resolving conflicts has mainly been attempted under the existing legal mechanism which includes the courts of law both under civil and criminal law. This institutional and legal framework such as going to the law court to seek legal remedy is expensive, time consuming, emotionally draining and unpredictable as a dispute resolution process. Under litigation, people go to court to get judgment in their favour thereby feeling victorious over their opponents. This often times leaves permanent scars on the mind of the losing party rather than resolving the problem, and may creates more enmity and foster hostility among the parties in future. So they have not really been effective in resolving or managing conflicts. Legal proceeding are quite costly, moreover its more interested in enforcing legal rights than protecting the interest of the parties involved.

Litigation is adversarial in nature and leaves little room for negotiation and agreement on issues of interest to the parties. It has been said that Law itself has at times been a source of conflict rather than a conflict solver. (Lederach, 1998). Alternative Dispute Resolution (ADR) has not been adequately utilized in the arena of the conflicts involving sustainable development. Alternative Dispute Resolution refers to those dispute resolution mechanisms that are used to resolve disputes without necessarily resorting to litigation. Furthermore, it refers to the process of settling disputes without going through legal procedures. Through ADR, settlement of disputes can be done in many formal and informal ways. Generally, dispute resolution can be initiated in two ways either by peaceful means or by use of force. The peaceful means implies using alternative ways such as dialogue, negotiation or third party intervention instead of using force or aggressive measures to resolve a dispute. And this entail ADR while the second implies that a powerful third party uses force, which does not have to be physical force, but could be aggressive persuasion to create social or structural pressure and influence on the parties to resolve existing disputes. The third party might have some interest which might not be on the dispute itself. He could work as a pressure factor and may or may not be neutral. However, there is tendency for such disputes to re-emerge. (USAID, 2003). ADR systems may be generally categorised as arbitration, conciliation/mediation and negotiation systems.

Arbitration

Arbitration has some semblance to litigation in that a neutral third party hears the disputants' arguments and imposes a final and binding decision that is enforceable by the courts. The proceeding follows laid down procedure by law. The difference between litigation and arbitration however is that in arbitration, the parties in the contractual agreement have already agreed to the procedure before the dispute arose and the proceedings are also less formal than in a law court. Another major difference is that, unlike court decisions, arbitration offers almost no effective appeal process. Thus, when an arbitration award is made the case is ended and cannot be appealed except on exceptional ground. Arbitration commences only if there is a valid Arbitration Agreement between the parties before the dispute emerged. The agreement is required to be in writing, Section 1of the Arbitration and Conciliation Act. Chapter 19, Laws of the Federation of Nigeria 1990. The contractual agreement, upon which the dispute is based, must in addition either contain an arbitration clause or refer to another document signed by the parties containing the arbitration agreement. The existence of an arbitration agreement can also be inferred by written correspondence such as letters, telex, or telegrams which provide a record of the agreement. An exchange of statement of claim and defence in which existence of an arbitration agreement is alleged by one party and not denied by other is also considered as valid written

arbitration agreement. Section 1 and 2 1of the Arbitration and Conciliation Act Chapter 19, Laws of the Federation of Nigeria 1990 A party to the dispute can start the process of appointing arbitrators and if the other party objects or refuses to cooperate, the other party to the arbitration agreement can apply to the court for the appointment of an arbitrator. Section 3of the Arbitration and Conciliation Act. However, there are only two grounds upon which a party can challenge the appointment of an arbitrator under Section 8 (3a and 3b) of the same Act, the first is if circumstances exist that give rise to justifiable doubts as to his impartiality or independence or if he does not possess the qualifications agreed by the parties. Also, under the Act, conditions are further given upon which a dissatisfied party can appeal the decision of the arbitration.

Conciliation

Conciliation is a less formal form of arbitration. This process does not require an existence of any prior agreement. Any party to the dispute can request the other party to appoint a conciliator. One conciliator is usually appointed though more than one is also allowed. Where they are multiple they must act jointly. The parties may submit statements to the conciliator intimating him of the dispute and the unresolved issues at stake. Thereafter, each party sends a copy of the statement to the other. The conciliator can ask for further clarification either orally or in writing. The parties can also decide to submit suggestions for the settlement of the dispute to the conciliator. And after

examining the nature of the dispute and seeing the possibility for settlement, the conciliator can draw up the terms of settlement and send it to the parties for their acceptance. If the parties execute the settlement document, it shall be final and binding on them. (Wikipedia, 2011).

Mediation

Mediation provides a forum in which parties can resolve their own disputes, with the help of a neutral third party. The mediator, also known as a facilitator, does not impose a decision upon the parties. Rather his assignment is to help the parties resolve the conflict or dispute themselves. To do this, different stages are followed such as getting the parties to agree on procedural rules to follow such cooperating with him, agreeing on the time and venue for the meeting and signing a formal confidentiality agreement containing the terms of the settlement. And according to the online legal dictionary (2011), mediation allows the parties to design and retain control of the process at all times and eventually reach an agreement. They are more willing to comply with their own agreements, achieved through mediation, than with adjudicated decisions, imposed upon them by an outside party such as a judge. Negotiation systems as part of ADR encourage and facilitate direct negotiation between parties to a dispute, without the interference of a third party. On the other hand, mediation and conciliation systems are similar in the sense that a third party intervenes to resolve the dispute between the parties.

Mediators and conciliators may simply facilitate communication, or may help broker a settlement between the parties, but lack the authority to make a decision or rule on a settlement. Arbitration systems authorize a third party to decide how a dispute should be resolved and the parties are bound by the arbitral award. It should however be noted that the institution of ADR is not new in Nigeria, especially for the purpose of ensuring sustainable development. There are provisions made in the country's legislation setting up many agencies for the incorporation of Alternative Dispute Resolution procedures. A sample is presented below.

- Section 19 (d) of the 1999 Constitution, under the Foreign policy objectives which provides that:

The foreign policy objectives shall be respect for international law and treaty objectives as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication.

- The Arbitration and Conciliation Act, Cap. A18, Laws of the Federation of Nigeria 2004 equally provides in Part 1, Sections 1 to 36, Part II, Sections 37 to 42, Part III, Sections 43 to 55 and Part IV, 56 to 58 methods of applying ADR. Likewise the Federal High Court Act, Cap. F12, LFN 2004 Section 17: which provides that: In any proceedings in the Court, the Court may promote reconciliation among the parties thereto and encourage

and facilitate the amicable settlement thereof. The other Acts encouraging use of ADR are:

- Section 2 of the Consumer Protection Council Act, Cap C25, LFN 2004
- Section 29 of the Environmental Impact Assessment Act, Cap. E12, LFN 2004 which states on Referral by Council that:

Where at any time the Council [Federal Environmental Protection Council] is of the
opinion that;

a. a project is likely to cause significant adverse environmental effects that may not be mitigable; or
b. (b) Public concerns respecting the environmental effects of the project warrant it, the Council may, after consultation with the Agency [Nigerian Environmental Protection Agency], refer to

The project to mediation or a review panel in accordance with section 35 of this Act.

- National Health Insurance Scheme Act, Cap. N42, LFN 2004 Section 26: Establishment and functions of the State and Federal Capital Territory Arbitration Board
- Nigerian Co-Operative Societies Act, Cap. N98, LFN 2004 Section 49: Settlement of disputes
- Petroleum Act, Cap. P10, LFN 2004 Section 11: Settlement of

disputes by arbitration

- Public Enterprises (Privatisation and Commercialisation) Act, Cap. P38, LFN 2004
- Section 27: Establishment and membership of the Public Enterprises Arbitration Panel
- National War College Act, Cap N82, LFN 2004 Section 5: Centre for Peace Research and Conflict Resolution
- National Boundary Commission, Etc. Act, Cap. N10, LFN 2004 Section 3: Functions of the Commission
- Energy Commission Of Nigeria Act, Cap. E10, LFN 2004 Section 5: Functions of the Commission
- Minerals And Mining Act, Cap. M12, LFN 2004 Section 76: Agreement of other interested parties
- National Office For Technology Acquisition And Promotion Act, Cap. N62, LFN 2004 Section 4: Functions of the National Office
- Nigerian Communications Commission Act, Cap. N97, LFN 2004 Section 4: Functions of the Commission
- Nigerian Dock Labour Act, Cap. N103, LFN 2004 Section 2: Functions of the Council
- Nigeria Export Processing Zones Act, Cap. N107, LFN 2004 Section 4: Functions of the Authority
- Nigerian Investment Promotion Commission Act, Cap. N117, LFN 2004 Section 26: Dispute settlement procedures
- International Centre for Settlement of Investment Disputes (Enforcement of Awards) Act, Cap. I20, LFN 2004 Section 1: Award of I.C.S.I. dispute to have effect as award in final judgement of Supreme Court
- Regional Centre For International Commercial Arbitration Act, Cap. R5, LFN 2004 Section 4: Functions and powers of the Centre
- High Court Act, Cap. 510, LFN (ABUJA) 1990 Section 18: Settlement of disputes Lagos, FCT High Court Rules High Court of Lagos State (Civil Procedure) Rules 2004 Order 25
- High Court of the Federal Capital Territory, Abuja Civil Procedure Rules 2004 Order 17: Alternative Dispute Resolution
- Rules of Professional Conduct (RPC) for Legal Practitioners, 2007 Rule 15: Representing client within the bounds of the law

Conclusion
It is heart warming to note that already, Nigeria especially at the state level has begun to explore the viability of ADR in dealing with issues of development for instance the president of Enugu Chamber of Commerce, Industry, Mine and Commerce, Chief Okechuku Nwadilobi in an address at the Eastern Mediation Centre, Enugu in 6th April, 2011, expressed the willingness of the chamber to adopt ADR in resolving conflict which

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ordinarily would take longer stresses of time in the conventional court. He also announced that the centre has been provided to serve the business of the community. This position was applauded by the governor of the state, Gov. Sullivan Chime in advocating that the effort would yield result in making the state one of the biggest centre of enterprise by the year 2020. What appears to be lacking is the popularization of the ADR processes among the population. It will be possible to encourage the study of ADR in our schools. It will also be possible to explore opportunities to apply ADR to the operation of organisational transactions. All stakeholders in various categories of disputes should be encouraged to review their position, taking advantages of the different aspect of ADR, this way we shall save time and resources wasted during crisis and be able to focus on the fundamental issues of sustainable development.

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