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The role of law in advancing the reproductive health and rights of women in Nigeria

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Abstract
The right to reproductive health is a concept that adopts a holistic approach to the delivery of reproductive health care and the protection of reproductive rights, rather than the hitherto narrow approach of viewing reproductive ill-health as a medical concern. The rights-based approach to reproductive and sexual health adopted at the International Conference on Population and Development (ICPD), 1994 reflects a new global policy consensus and the relationship between law, population, policies, reproductive health and rights, especially for women. The fundamental basis of reproductive ill-health for women and girls is often embedded in discriminatory social structures and stereotypes that can be remedied and reformed by law. Because of impact, urgency and inequity, reproductive health has become a global concern in crucial areas, including health, population, development, human rights, gender equality and law. Many countries are reforming and enacting laws to address women's reproductive health issues because women's reproductive health issues are often perfunctorily addressed in a country's health policies since it does not provide the legal framework to respect, protect and fulfil reproductive health rights as stipulated by ratified international instruments. Therefore advancement of women's reproductive health rights requires a firm legal foundation in which the people can make the government or any other transgressor accountable. Law is a powerful instrument because it influences how people think and act. Public officials and individuals may use the law to advance the purpose of reproductive health. This paper examines the concept of law and reproductive health and rights and some Nigerian policies and legislation on reproductive health and argues that law can advance women's rights to reproductive health in Nigeria.

Keywords: law, reproductive health, rights of women

Introduction
An important legacy of the International Conference on Population and Development (ICPD), Programme of Action, 1994 and the Fourth World Conference on Women, 1995 is the recognition that laws and policies relating to reproductive health issues should aim at realising women's reproductive health care needs, such as family planning and contraceptive, safe abortion, safe motherhood control and treatment of HIV/AIDS and other sexually transmitted diseases, prohibition of harmful traditional practices like female genital mutilation (FGM), education on human sexuality and responsible parenthood [1]. Since international human rights norms set out broad principles rather than defining the precise content of national laws, one of the government significant challenges is to develop appropriate legislation on population and reproductive health that promote and protect the human rights of women and girls children [2]. In this respect, states must promulgate, implement and advance a comprehensive legal strategy to promote women's right to health by implication reproductive health as stipulated by signed and ratified international and regional documents [3]. Policies commonly lack legal enforceability and may be replaced when there is a change in government, thereby creating the potential for instability in how reproductive health care services are provided. Therefore, it is essential to ensure that the law protects national commitments and obligations, which they have signed and ratified.

Laws may be based on customs or moral values even though they tend to be expressly enacted by the politically composed legislature in modern systems. Lawmaking is generally seemed to follow one or two models, either it is based on the principles of moral and ethical values or its utilisation based on rules and provisions that individuals are expected to obey irrespective of valued consideration; both models often derive their provisions from moral visions rooted in religion or political philosophy [4].

A legal system based on religious and customary laws prioritises sacred ideologies and often requires that secular laws conform to religious interpretations.

The experience has shown that legal systems founded on religious or moral countries have criminalised abortion and compromised women's reproductive rights by reliance on religious and other considerations that favour a strict social condemnation of termination on any ground [5].

Issues of sexuality and reproductive health, primarily for women, have historically been regulated by customary or principle-based laws. However, epidemiological and legal research has further shown that customary laws are often detrimental to women's reproductive health. For example, laws that strictly prohibit abortion or prevent procedure except upon strict medical ground result in widespread illegal and unskilled practices causing women's death and disabilities, infections and impairment of future reproductive capacities [6].

Guided by principles in national constitutions and international human rights documents, national laws are beginning to have a determinable gender impact [7]. Many advocates also increasingly recognise that human rights principles can be applied in various branches of the legal system to protect women's reproductive health. For example, constitutional law, as a central body of law that stipulates principles by which government is regulated and functions that states are required to observe, can incorporate international human rights laws that countries have committed themselves to observe. Moreover, both constitutional and human rights principles expressly recognise gender equity and health rights, including reproductive health by extension [8].

Laws that regulate reproductive health practices are instruments by which States can implement and give effect to policies that enhance and protect people's reproductive health, especially those of women and girls. When these provisions are enforced, they can positively influence people's actions or inactions and enhance governmental accountability. Reproductive health laws are directed primarily at protecting the legal rights of women. They are usually aimed at reducing maternal mortality and morbidity arising from lack of reproductive health care, eliminating harmful traditional practices, reducing violence against women and making abortion safe, and such laws can also be aimed at the protection of women's health against H.I.V./AIDs and provide for the education of health care providers.

Therefore, the general role of law in the context of reproductive health is to provide for the legality of a position or conduct, offer remedies against reproductive rights violations, and advance reproductive health goals. For instance, when the Irish law prohibited abortion in Ireland, legal pressure led to an amendment in the national constitution to allow women to travel elsewhere, notably to England, for terminations [9].

The fundamental basis of reproductive ill-health, especially for women, is often embedded in discretionary social structures and stereotypes that can be reformed and remedied by reasonable interpretation of enacted laws.

A women's status and her ability to safeguard her health and her family depend not just on her right to decide on the number and spacing of her children. Her status also depends on her right to act as an independent adult, participate as a citizen in her community, earn a living to win and control property, and be free from discrimination based on gender, race, and class [10]. This constellation of rights makes the specific right to reproductive choice meaningful. Conversely, without the right to reproductive choice, each of the other social and economic rights has only limited power to advance the well-being of women. Unfortunately, the legal machinery for protecting and enforcing women's reproductive rights in Nigeria has been largely ineffective and inadequate, making women the most vulnerable and powerless members of Nigerian society [11]. Under the Nigerian legal system, women frequently suffer marginalisation, discrimination and violence largely because specific issues about women are kept in the private sphere.

The new global agenda, which began in 2016, seeking to drive significant development for all over the next 15 years, signifies renewed commitments from governments worldwide to reduce maternal mortality to achieve universal access to reproductive and sexual health information. Education ensures reproductive rights and achieves gender equality as a matter of women's and girls' human rights laws because they set the rules of social interaction and can provide the framework for implementing human rights guarantees, but may also create a limitation on health and rights. Either way, laws impact the enjoyment of the highest attainable standard of reproductive health. For instance, laws that foster the dissemination of objective, comprehensive information, if implemented for all, contribute to the people knowledge of what protects or damages their reproductive and sexual health, including where and how to seek further information, counselling and treatment if needed [12]. On the other hand, laws restricting access to health services by requiring a third person's authorisation for services for women and adolescent girls effectively exclude or deter people from seeking and receiving the information and service they require and to which they have a right.

A combination of inadequate legal protection religious and customary inhibitions conspire to lower the status of women in Nigeria society. Women's low socio-economic status exposes them to physical and sexual abuse, coerced sex, unwanted pregnancies and sexually transmitted diseases, to mention a few. Formal and case laws can advance reproductive health and rights, especially for women. The judicial system can use the law to link abuses of reproductive health rights to actions or non-actions for which the state or government is accountable. This work set out to examine the role of law in advancing reproductive health and rights, e

Distinction between an existing difference and one which may arise is a material one. As a general rule, the seller wants to get the highest price for the property, and the purchaser wishes to give the lowest, and in that sense, it was said that an expected difference between the parties is to imply in every case, except difference has arisen, it does not appear to be an "arbitration". Undoubtedly, if two persons enter into an arrangement to sell any particular property and try to settle the terms but cannot agree. The after dispute and discussion respecting the price, they say, "we will refer this question to price to A.B., he shall settle it, and thereupon they agree that the matter should be referred to the arbitration, that would appear to be "arbitration" in the proper sense of the term; but if they agree to a price to be fixed by another, that does not appear to be arbitration [13].

If it appears from the terms of the agreement by which a matter is submitted to a person's decision that the parties intended that he should hold an inquiry like a judicial inquiry, and hear the respective cases of the parties and

decide upon evidence laid before him, then the case is one of an arbitration. The intention in such cases is that there shall be a judicial inquiry worked out judicially. On the other hand, there are cases in which a person is appointed to ascertain some matter to prevent differences from arising, not settling them when they have arisen and where the case is not one of arbitration but of a mere valuation. There may be cases of an intermediate kind where a person is appointed to settle disputes that have arisen. Still, it is not intended that he shall be bound to hear evidence or arguments. In such cases, it may often be challenging to say whether it is intended to be an arbitrator or exercise some function other than that of an arbitrator. Such cases must be determined according to their particular circumstances [14].

An Arbitrator is a disinterested person whose judgment and decision matters in dispute are referred. A difference is made between *arbiter* and *arbitrator*; both found their power in the compromise of the parties; the former being obliged to judge according to the customs of law, and the latter is at liberty to use his discretion and accommodate the difference in that manner which appears most just and equitable. An arbitrator ought to be an indifferent person between the disputants and should be incorrupt and impartial. He is generally the final judge of law and fact; he is bound by the rules of law and occupies a judicial position [15]. Moreover, we cannot award anything contrary to it [16].

In commercial arbitrations, it is recognised practice that an umpire is appointed for the arbitrators on either side to act, in effect, as advocates unless the parties otherwise desire [17].

Generally speaking, almost all matters in dispute, not being of a criminal nature, may be referred to arbitration; but there was no mode of making the award binding at common law. The defect was first cured by the statute 1679, 9 and 10 Will 3, C. 15, which enabled parties to agree that submission might be made a rule of Court and consequently binding [18].

In Nigeria, arbitration is governed by the Arbitration and Conciliation Act, Cap A18, Laws of the Federation of Nigeria, 2004. Under the Act, every arbitration agreement shall be in writing contained [19].

In a document signed by the parties; or

In an exchange of letters, telex, telegrams or other means of communication which provide a record of the arbitration agreement; or

In an exchange of points of claim and defence in which an arbitration agreement is alleged by one party and not denied by another.

Any reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement if such contract is in writing and the reference is such as to make that clause part of the contract [20].

Unless a contrary intention is expressed, an arbitration agreement shall be irrevocable except the parties' agreement or by leave of the Court or a Judge [21]. An arbitration agreement shall not be invalid because of the death of any party to it but shall, in such event, be enforceable by or against the personal representative of the deceased [22].

If any party to an arbitration commence, any action in any court concerning any matter which is the subject of an arbitration agreement, any party to the arbitration agreement may, at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings apply to the Court to stay the proceedings [23].

A Court to which an application for stay of proceedings is filed may if it is satisfied:

That there is no sufficient reason why the matter should not be referred to arbitration by the arbitration agreement; and

The application was when the action was commenced and remains ready and willing to do all things necessary to the proper conduct of the arbitration, make an order staying the proceedings [24].

The parties to an arbitration agreement may determine the number of arbitrators to be appointed under the agreement, but where no such agreement is made, the number of arbitrators shall be deemed to be three [25].

The parties may specify the procedure to be followed in appointing an arbitrator in the arbitration agreement [26]. Where no procedure is specified –

In the case of arbitration with three arbitrators, each party shall appoint one arbitrator and the two thus appointed shall appoint the third, so however, that –

If a party fails to appoint the arbitrator within thirty days of receipt of a request to do so by the other party; or

If the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment,

The Court shall make the appointment on the application of any party to the arbitration agreement;

In the case of arbitration with one arbitrator, where the parties disagree on the arbitrator, the Court shall make the appointment on the application of any party to the arbitration agreement made within thirty days of such disagreement [27].

Where under an appointment procedure agreed upon by the parties –

A party fails to act as required under the procedure; or

The parties or two arbitrators are unable to reach an agreement as required under the procedure; or

a third party, including an institution, fails to perform any duty imposed on it under the procedure, any party may request the Court to take the necessary measure unless the appointment procedure agreed upon by the parties provides for other means for securing the appointment [28].

Above, a decision of the Court shall not be subject to appeal [29]. In exercising its power of appointment, above, the Court shall have due regards to any qualifications required of the arbitrator by the arbitration agreement and such other consideration as are likely to secure the appointment of an independent and impartial arbitrator [30].

Any arbitral award shall be recognised as binding upon application in writing to the Court, be enforced by the Court [31]. The party relying on an award or applying for its enforcement shall supply –

The duly authenticated original award or a duly certified copy thereof; and

The original arbitration agreement or a duly certified true copy thereof [32].

By leave of the Court or a Judge, an award may be enforced in the same manner as a judgment or order to the same effect [33].

It is important to note that "arbitration" under the Act means a commercial arbitration, whether or not administered by a permanent arbitral institution. "Commercial" means 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 works, consulting, 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. The "Court" means the High Court of a State, the High Court of the Federal Capital Territory, Abuja or the Federal High Court [34].

Notwithstanding the existence of an arbitration clause, the parties to any agreement may seek an amicable settlement of the dispute about the agreement by conciliation [35]. A party who wishes to initiate conciliation shall send the other party a written request for conciliation. Any request sent shall contain a brief statement setting out the subject of the dispute [36]. The conciliation proceedings shall commence on the date the other party accepts the request to conciliate [37].

Where the request to conciliate has been accepted, the parties shall refer the dispute to a conciliation body, consisting of one or three conciliators to be appointed –

In the case of one conciliator, jointly by the parties;

In the case of three conciliators –

One conciliator by each party; and

The third conciliator jointly by the parties [38].

The conciliation body shall acquaint itself with the details of the case and procure such other information it may require for settling the dispute. The parties may appear before the conciliation body and may have legal representation [39].

After the conciliation body has examined the case and heard the parties, if necessary, it shall submit its term of settlement to the parties [40]. If the parties agree to the settlement terms, the conciliation body shall draw up and sign a record of settlement [41]. If the parties do not agree to the terms of settlement submitted, they may:

Submit the dispute to arbitration by any agreement between them; or

Take any action in Court as they deem fit [42].

However, nothing done concerning the conciliation proceedings shall affect the parties' legal rights in any submission to arbitration [43].

It is important to note that customary arbitration is binding and enforceable upon which parties submit themselves to its jurisdiction. However, where there is divergent evidence of Customary Law arbitration, the Court should make a specific finding on whether there was properly constituted arbitration since the arbitration would be binding on the parties [44].

Leave to enforce an arbitration award as a judgment may be refused on the ground that the award is a nullity or is wholly or in part ultra *vires*. However, if the objection is that the arbitrator misconducted himself or erred in law, that will not be a ground for refusing leave (or a defence to an action to enforce the award), and the proper course is to apply to set aside the award or remit it to the arbitrator. Accordingly, since the point raised by the appellants cannot be a ground for refusing leave to enforce the award or any part thereof, the appeal must fail [45].

The arbitration may be statutory, consensual or customary. Statutory arbitration is non-voluntary. The parties either agree by referring to a statute or providing it for them. An excellent example of statutory arbitration is the Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria, 2004 [46].

Consensual arbitration is the type found in most commercial agreements drawn by lawyers. They are agreements supposedly based on the consensus of the parties. This is where the bulk of the provisions of the Arbitration and Conciliation Act become very relevant [47].

Customary arbitration is the type practised imperceptibly by most of our people in our local communities, corporative societies, clubs, mosques, churches, Etc. This is primarily unwritten, but it can easily be found in the customs and traditions of the people who apply it [48].

In Njoku V. Ekeocha, [49] Ikpeazu, J, made this pertinent statement on customary arbitration:

Where a body of men, be they chiefs or otherwise, act as arbitrators over a dispute between two parties, their decision shall have a binding effect if it is shown firstly that both parties submitted to the arbitration. Secondly, the parties accepted the terms of the arbitration and thirdly agreed to be bound by the decision; such decision has the same authority as the judgment of a judicial body and will be binding on the parties and thus create estoppel.

In Agu V. Ikewibe, [50] Karbi-Whyte, J.S.C., observed:

It is accepted that one of African Customary modes of settling disputes is to refer the dispute to the family head, an elder or elders of the community for a compromise solution based upon the subsequent acceptance by both parties of the suggested award, from which either party is free to resile at any stage of the proceeding up to that point. This medium is a standard settling of disputes in all indigenous Nigerian societies.

It has been observed, and quite rightly in our humble view that Courts in this country and the Western World were and are still in the main primary forum for resolving these disputes. It is not discrediting the judges that preside over litigations in Court to say that litigations are known to be unduly protracted. The legal machinery grinds slowly, perhaps, in the interest of justice. It is axiomatic that it is the duty of Courts to strive to reach a just decision, and such decision must be reached by procedures designed for the purpose, some of which admittedly are too technical and cumbersome for quick resolution of disputes. The enormous number of cases filed in courts is bound to be a delay in disposing of them. Protracted litigation can harm a business relationship, and for this and other reasons thinking on dispute resolution has been changing. Alternative dispute resolution methods have received increasing attention, possibly providing more appropriate methods of solving particular kinds of disputes. Arbitration has been considered the main alternative to litigation [51].

Alternative Dispute Resolution (A.D.R.)

In all facets of life these days, there is a global paradigm shift from "government control" to "deregulation". This shift has not left justice delivery; instead, it has always depended on law initially and an efficient justice delivery as one of its major components. In the middle ages, barbarism was the order of the day; it might be correct, and rights were enforced through physical means and sometimes the force of arms. With time, the law came through litigation, the problems of which were subsequently to be mitigated by introducing equitable principles. However, it is common knowledge that some of the equitable principles hitherto hailed as being magical have proved inadequate. Consequently, justice delivery keeps resorting to other alternative dispute resolution (A.D.R.) processes. These A.D.R. processes include negotiation, mediation, conciliation, partnering and alliancing, mini-trial, confidential listening, neutral evaluation, summary jury

trial, neutral fact-finding, settlement conference, rent-a-judge and arbitration [52].

Alternative Dispute Resolution refers to all means or methods of resolving disputes outside Courtroom litigation. These include a wide range of processes that encourage dispute resolution primarily by agreement of the parties as against a binding decision in litigation. Thus, "Alternative" refers to other "options" to litigation. A.D.R. processes vary in substance and form. Some of the processes include Negotiation, Mediation, Conciliation, Arbitration and Hybrid processes such as Med-Arb, Mini trial, Early Neutral Evaluation and Expert Appraisal. Compared to litigation, A.D.R. processes offer several advantages and benefits, including privacy, speedy resolution of disputes, fewer costs, better relationship and greater control over both the process and the outcome [53].

Some call it Appropriate Dispute Resolution, others call it Amicable Dispute Resolution, while others who believe that its origin is rooted in Africa call it African Dispute Resolution. Whatever you may wish to call it, the fact remains that the essence is to seek and apply different peaceful means of resolving disputes [54].

Many of the techniques brought together under the umbrella term "A.D.R." have deep and separate roots. For example, in civil law, Asian judicial systems and African traditional dispute resolution models, the Adjudicator has attempted to settle claims by custom of duty by conciliation, mediation in family, community, and labour relations disputes all have independent, and sometimes long-standing historical or cultural roots [55].

The term Alternative Dispute Resolution (A.D.R.) originated in the U.S.A. in a drive to find an alternative to the traditional legal system felt to be adversarial, costly, unpredictable, and rigid, damaging to relationships and limited to narrow rights-based remedies.

A.D.R. is a term that covers the whole range of alternatives to litigation or arbitration, which involve third party intervention to assist resolution of disputes. In some writings, arbitration is also referred to as part of A.D.R. It was, of course, the first well-developed alternative to litigation. A.D.R. is flexible and adaptable, and specific A.D.R. processes can be devised to such complex disputes in interpersonal, communal and ethnic conflicts. An appropriate process can be found where there is a willingness to use alternative dispute resolution methods [56].

Alternative Dispute Resolution (A.D.R.) focuses on cultivating an attitude of patient negotiation, seeking mutual understanding, tolerance and accommodation. It requires dialogue, persuasion, mediation and trust capable of directing the people's energy into reaching consensus in personal, public and commercial dispute matters [57].

Interestingly, this is the consensus dictate, found in many ancient cultures in Nigeria and Africa, but which have gradually faded away by the invasion of the European legal system, military aberrations, and modern reasoning and approaches that lack patience, dialogue, and tolerance [58].

Furthermore, it is necessary to understand and differentiate litigation and arbitration from A.D.R.

Litigation is an adversarial dispute resolution process where the parties use the instrument of State Courts established by law to determine their legal rights. The litigant usually decides on the cause of action to pursue in Court and the appropriate remedy to seek. The Court adjudicates based on the evidence provided by the disputing parties. Under the adversarial system in Nigeria, parties are required to personally source and provide their evidence, pay the fees for the originating processes and record of proceedings for cases on appeal, settle solicitors fees and bear other incidental costs. All these require substantial resources before, during, and sometimes even after the trial. Apart from the costs, institutional and structural weaknesses in the judicial system have led to a situation where the majority of the cases and disputes spend are embarrassingly long periods in Court, adding to the frustrations of the parties. The frustrations resulting from litigation time and costs led to the search for, rediscovery and acceptance of other options for dispute resolution. A.D.R. processes provide succour to litigants in most cases where litigation has failed as a means of securing justice. However, while A.D.R. seems to address the problems associated with litigation, it must be noted that litigation could still be an effective mechanism for resolving specific disputes. Some of the instances where litigation should be the preferred option are:

Questions bothering on the legal interpretation of Statutes or Rules;

Where legal precedent needs to be set;

Emergencies where injunctive or preventive relief is necessary against an absconding defendant;

Public policy;

Where it is necessary to avoid the action being statute-barred;

A frivolous claim that the Court will most definitely dismiss [59].

Alternative Dispute Resolution (A.D.R.) processes are the methodologies for resolving disputes outside Courtroom litigation. A.D.R. is not a substitute for litigation but a solution to the problem of congestion in Courts. Nevertheless, it is a necessary part of any efficient framework for dispute resolution. Thus, even where there are no delays in litigation, A.D.R. is still a vital component of justice delivery in any judicial system. This is so because it is not all disputes about right and wrong, which is the foundation of litigation [60].

Arbitration is an adjudicative process in which a neutral third party is appointed to hear a matter and to give an award that is binding based on law and evidence [61]. Unfortunately, arbitration has become very similar to litigation in both cost and time, although more streamlined “fast track” forms of arbitration have been developed [62].

The question arises as to whether arbitration is truly an A.D.R. process. Arbitration is not a core A.D.R. process. Depending on the basis for the classification of A.D.R. processes, arbitration is usually classified as an A.D.R. process. This is especially so,

Where A.D.R. is defined as all "alternatives" to litigation. In this respect, A.D.R. means all dispute resolution processes outside Courtroom litigation. The classification is based on the extent of control of the parties both in the process and the outcome; then, arbitration is not a core A.D.R. process. This is because, while other A.D.R. processes lead to an *agreement* of the parties, by the parties themselves, arbitration, just like litigation, leads to a binding *decision (award)* by a third party. Also, arbitration and litigation are adversarial processes, while other A.D.R. processes are essentially non-adversarial. Because of the adversarial nature of arbitration, the same acrimony and hostility that characterise litigation are also found in arbitration. Apart from the privacy of the arbitration process and the right of

the parties to choose their judge (arbitrators), the arbitral process is conducted mainly in the form of a legal context where the party who represents a better legal case wins. In several cases, this win-lose outcome may lead to dissatisfaction and resistance by the party who lost. This perhaps explains why parties to arbitration most times end up in Court over one issue or the other. This worrisome situation is particularly so in Nigeria, where arbitration is almost "high jacked" by lawyers who, in the majority of the cases, approach the process with the same litigation mindset and win-lose orientation. Where lawyers conduct arbitration as litigation-in-disguise with the attendant rigidity and technicality, they rob the process of some of the critical attractions of A.D.R. The close relationship between arbitration and litigation explains why it is easier for lawyers to understand and practice arbitration than the non-adversarial A.D.R. processes, like negotiation and mediation. Nigerian lawyers need to focus more on negotiation and mediation in order for the system to tap the full potentials of A.D.R. [63] Moreover, indeed to give the administration of the justice system meaning in this regard.

The adversarial legal mindset of Nigerian lawyers has been a matter of grave concern in the development of A.D.R. processes.

The whole legal studies curriculum is centred on knowledge of the law and procedures to wage and win legal battles. The negative mindset deriving from legal studies is reinforced by the structure of the legal profession in Nigeria, essentially litigation-oriented. Being called to the bar is necessary for becoming a professional lawyer, unlike in the French system; for example, litigation is one of several options for law students. This naturally leads lawyers to think in terms of victories and defeats [64].

Before we can convince lawyers of the benefit of a problem-solving approach to conflict, we have to discuss an underlying issue openly. Lawyers assist their clients to defend their rights and (it is assumed) their best interests. However, just as in any other situation where an agent represents a principal, they may sometimes have conflicting interests [65].

Lawyers thrive on conflict, while clients suffer from it. The client's heavy burden of legal fees is a handsome income for the lawyer. Litigation involves executive time and energy taken away from the real business of an organisation while it constitutes the core business of lawyers. A prolonged court case may have high psychological costs for the plaintiff and defendant alike in terms of stress, while for lawyers, it is closer to an enjoyable challenge stretching their skills. The defeated party will be dissatisfied and try to achieve a bare minimum of compliance so that the winning party will still be losing something; for the unsuccessful lawyer, a defeat once in a while is part of the game. The damaged relationship between the contending parties may lead to a re-occurrence of conflict, increasing the likelihood of continued business for lawyers [66].

It would appear that a collaborative, problem-solving approach to conflict is very beneficial to the disputing parties but puts lawyers out of the picture. This can explain why lawyers perceive their role as essentially bound to litigation and seldom recommend negotiation as a way of resolving conflict except as a last resort after legal proceedings have been started. It seems that a collaborative approach to conflict resolution is simply not what lawyers are expected to engage in [67].

Therefore, a fundamental question is the possibility of a paradigm shift for lawyers to see themselves as problem solvers with the objective of mutual satisfaction, not only as the experts always ready for legal battles [68]. A substantial majority of Nigerian men and women in the formal business sector profess a preference for a win/win approach to negotiation, and there is no reason why such an approach should be found beneficial only in business transactions [69].

Negotiation can be defined as “a discussion between two or more parties aimed at resolving incompatible goals” or goals that *appear* to be incompatible or difficult to reconcile. It is a process by which parties seek to agree on a conflictive issue [70].

Negotiation may be adversarial, notably when the purpose of the parties is to conclude the negotiation with a clear identification of a winner and a loser: this is called a win/lose the negotiation. When the adversarial negotiators match each other in determination and stamina so that no winner emerges, the negotiation may end in compromise in which both warring parties decide to give up on their demands – or in a lose/lose outcome in which one losing party takes action to prevent the other one from reaping the benefits acquired through the negotiation [71].

Alternatively, negotiation may be collaborative (or integrative), when the parties seek to reconcile interests so that there will be no loser; this is also called win/win negotiation. Win/win negotiation is “the act of seeking agreement to the maximum advantage of all concerned” [71].

The win/win concept may sound idealist, far removed from reality. Is it possible for both contending parties to win? Of course, no one suggests that both parties can win their arguments in their original shape. Instead, the idea is that if they avoid sticking stubbornly to their positions and instead shift their attention to the interests underlying these positions, they can find ways of satisfying those interests. They can generate various options, which provide higher value for both parties [72].

A.D.R. techniques work because a third party can help eliminate or reduce some of the main obstacles to successful negotiation. Mediation is the A.D.R. technique that enables the parties to resume or sometimes to begin negotiations. The very presence of a mediator changes the underlying dynamic of the negotiating process. The mediator brings negotiating, problem-solving and communication skills to the process, deployed from a position of independence and neutrality, making real progress possible where direct negotiations have stalled [73].

The mediator adds value to a negotiation, having no personal stake in the case, bringing neutrality to detailed negotiation discussions and adding a fresh and independent mind to a review of the case. Besides being quick and cost-effective, one further significant advantage of mediation is that it looks forward, encouraging the parties to turn from history and look to the future [74].

Not all disputes are resolved by defining a future relationship, but the thought of a future without the dispute can in itself be a powerful reason for the settlement. Ideally, parties need to be able to recognise the natural barriers to settlement for themselves so that they can make an informed choice about the use of mediation, selecting the best process for resolving the particular dispute, identifying the role and techniques required from a mediator or other third-party neutral, and specifying any personal qualities appropriate to the circumstances [75].

In Nigeria, many Nigerians are only beginning to embrace Alternative Dispute Resolution in recent times through the untiring efforts of a few Nigerian groups who are carrying on the crusade such as Regional Centre for International Commercial Arbitration, Lagos; Association of Professional Negotiators and Mediators; Initiative for African Peace; NCMG and Centre for Peace in Africa. For instance, bankers recently rose from a seminar among the professions while decrying the slow pace of cases in the Courts in Nigeria. They issued a communiqué calling for creating a mandatory provision for Alternative Dispute Resolution (A.D.R.) as a first choice of dispute resolution before an aggrieved party can head for the Law Courts. The revolution is going round. Earlier, the Nigerian Bar Association on 9th December 2003, while inaugurating the section on Business Law, in line with the International Bar Association standards, created a subsection on Arbitration/A.D.R. Within the executive arm of the government, some states in Nigeria have started annexing A.D.R. processes to their judicial systems [76].

Conclusion

A multi-door courthouse is a Court of law in which facilities for A.D.R. are provided. It is the formal integration of A.D.R. into the Court system. Thus, rather than have a Court system with litigation as the only avenue for dispute resolution, the multi-door courthouse offers disputants the choice of other A.D.R. processes that may be appropriate for the particular case. It is important to note that a multi-door courthouse is a concept and not a reference to the building or apartment where A.D.R. is practised within the Court premises. It is not the A.D.R. section in the Court premises. The Act of official recognition and availability of A.D.R. processes as part of the justice delivery system in a particular jurisdiction. A MULTI-DOOR COURTHOUSE EXISTS once A.D.R. is officially integrated into the judicial system with a trained workforce available, even if no building is *repainted* or *erected* as "the multi-door courthouse". A multi-door courthouse was first presented in 1976 by Professor Frank Sander of the Harvard Law School. Professor Sander conceived of a court that offered disputants a variety of ways of resolving their disputes. As a means of decongesting the Courts and ensuring greater efficiency of the judicial system, he suggested that rather than add every case to the litigation cause list, multi-door courthouses direct litigants to "intake specialists" who assess disputes brought to the Court and determine the optimal mechanism for resolving them. However, it is essential to note that the multi-door courthouse does not replace *ad hoc* A.D.R. practice. Even in jurisdictions where A.D.R. has been institutionalised through the multi-door courthouse, a substantial number of cases are still being resolved through private A.D.R. arrangements. The idea of a multi-door courthouse is fast gaining acceptance in Nigeria, establishing the *Lagos* and *Abuja multi-door courthouses* [77]. Indeed, it is suggested that if the multi-door courthouse system is fully adopted and integrated into every state of the Federation, this would enhance the justice delivery system and thus enhance the administration of the justice system. Therefore, our contention here is that the multi-door courthouse should be fully integrated into the judicial system in Nigeria as a matter of urgency.

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