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ALTERNATIVE DISPUTE RESOLUTION VIS-À-VIS THE LEGAL PROFESSION IN NIGERIA

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1.1 Introduction

ADR simply put, refers to the procedures for the settlement of disputes by means other than litigation. For example, by the use of mechanisms like negotiation, mediation, conciliation, arbitration and host of other hybrid species.[1] These alternative processes which are said to be less costly and more expeditious are increasingly being used in the United States of America in the handling of commercial and labour disputes, divorce cases, medical malpractice tort claims and in many other kind of disputes that would likely otherwise involve court action.

In the 1970's, the ADR movement gained substantial momentum and for the first time, it was referred to as alternative methods of dispute resolution. It was alternative to the traditional mode of dispute resolution i.e. litigation. The term alternative dispute resolution was vague so it attracted a lot of interesting discussions. Some proponents of the movement pointed out that the letter "A" in the acronym actually stands for "Appropriate", while to others "A" stands for Alternative – alternative in the sense of one of many methods.[2] Yet others suggested an additional "M" in between the letter "A" and "D" i.e. AMDR (Alternative Methods of Dispute Resolution). This they argued includes even litigation as part of the alternatives. Others prefer the acronym DR – Dispute Resolution, that these methods are independent and not alternative to any other method of dispute resolution.

To some protagonist, ADR as it were, serves no meaningful purpose and is inferior to litigation because, it presupposes that methods other than the traditional litigation process involving trials enjoy a second-class status as alternatives. To Dr. Tawfiq Ladan,[3] "ADR is a useful shorthand expression as long as it is understood to refer to a system of multi-option justice in which a wide range of dispute resolution processes are available to parties in the public justice system."[4]

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1 These hybrid species include mini trial, summary jury trial, early neutral evaluation, ombudsman, med-arb etc.

2 Ladan, M.T. *Alternative Dispute Resolution in Nigeria, Benefits, Processes And Enforcement* in Current Themes in Nigerian Law, ILARN, 1998, p. 249

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4 Ladan., op. cit. p. 249

To this author, the term ADR is seen as a responsive method of dispute resolution that complements litigation to make for an effective justice system. All must go hand in globe, the one assisting the other.

Conscious efforts have been made and are still being made with regard to the use of ADR in Nigeria.[5] Before now, ADR was used principally in specialized fields like industrial relations and commercial transactions but attempts are now on the ground to extend its use to almost all facets of human endeavours. Because of this eminent spread of the application of ADR, this paper sets out to discuss some of the concerns and fears not only of lawyers concerning ADR but also of disputants and the government. The paper will conclude by proffering some solutions to the concerns with the singular objective of chanting a veritable path towards the institutionalization of ADR in Nigeria.

1.2 Some Concerns and Fears

1.2.1 Concerns and Fears with regard to Lawyer

a) Some of the fears habour by lawyers in the use of ADR processes stem from the fact that some of them know very little about ADR, frequently confusing mediation and arbitration. From the research we conducted in the course of this study, 7 respondents out of the 90 representing 7.78 percent were not aware of the existence of ADR mechanisms[6]. In a bid to cover their inadequacy therefore, the tendency has been to follow litigation, which to them is a path of least resistance and minimal risk. This in a sense entails embarking on the tried and tested route of dumping the problem onto the laps of the court, rather than risking possible criticism for unwise settlement via ADR.[7] This ignorance by some lawyers invariably leads to a gap in communication because, since the lawyer cannot give what he himself does not have, he fails to apprise his client of possible cheaper, faster and less acrimonious ways of achieving his objectives than by litigation. This situation is confirmed by our research data, which show lack of awareness of ADR mechanisms amongst the general public to account for 83.58 percent.[8] However, lawyers should not be blamed entirely for this unhealthy development because by dint of their training they are by and large guided by precedents, which can readily be obtained from law reports, legal texts and court judgments. But strangely enough the workings in the field of ADR seem to be cloaked in a shroud of mystery because the awards and findings of arbitrators and mediators are not reported or made available to the public. Mr. Justice Hunter lamented this attitude in the following words.

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5 States like Lagos, Kano and even the Federal government established the Abuja multidoor courthouse to implement ADR.

6 See table 1.1 Appendix.

7 Siemer, D. Perspective of advocates and clients on court-sponsored ADR, in Dispute Resolution, Negotiation and processes, Little, Brown and Company Law book Division, 1996 p. 423.

8 See table 1.2 Appendix.

> *A centre is only as good as its arbitrators and the service it can provide. The best way to judge a centre is by the quality, of its work, namely by reading its awards. This, under present practice, no one can do. I see no reason why awards of arbitrators, neutrals if required by the parties should not feature in law reports.*[9]

b) Apart from the ignorance syndrome on the part of some lawyers on the workings of ADR mechanisms, some who are conversant with it feel that by entering into a court-sponsored ADR programme for example, they tend to lose control of their case. This is so because, in the normal litigation context which they are used to, the court rules confer certain powers on lawyers to set the schedules, propose demands and even compel the other party to do or not to do certain things. The ADR processes as it were appear to interfere with or suspend that control which lawyers usually enjoy, because an outsider now looks at the case. This situation is further compounded by the fact that the neutral or mediator largely determines the rules of the exercise as it progresses without following any laid down rules or standard form. The discussions are usually free-flowing and may wonder into subjects having to do with what is really bothering one of the parties, perhaps covering areas not in issue at all. This line of discussion, which is largely inquisitorial in nature, may tend to flow towards unpredictable directions and no body could be heard to raise an objection, as would have been the case in regular courts where parties are bound by their pleadings. In court, appearances are usually procedural in nature; one side speaks first, then the other side speaks, then the judge decides. The danger of unleashing surprises during oral presentations is very limited and the judges' role in determining the course of event is highly regulated by the law.

c) Curious enough to, ADR is looked upon by some lawyers as a path of luck and least resistance, because the knowledge and skill which they have acquired in law school and in practices in eliciting the truth and what is relevant by oral examination, coupled with persuasive argument based upon the evidence and legal argument are hardly utilize in the domain of ADR. Opting for settlement rather than going to court is often misconstrued as a sign of incompetence and acceptance of blemish. Since there seems to be a taboo about appearing too eager to settle in this part of the world, in practice either side would rather prefer to be pulled onto the negotiation table. In a scenario like this where either party is waiting for the other to

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9 Hongkong Dispute solutions, the Journal of the Chartered Institute of Arbitration vol. 58, NO. 2, 1992, p. 10

make the first step towards settlement, the tendency is for the parties to end up in court.

d) Even when parties finally agree to negotiate, there is the belief that appearing reasonable at the negotiation exercise may send wrong signals to the other party. Thus, the tendency is for lawyers appearing for parties to hold back from making concessions so as not to appear too ready to compromise.

e) By virtue of their training, lawyers are looked upon by the public as 'legal warriors' who must go to the battlefield (court) in order to earn their living. So a majority of clients who walk into a lawyer's chambers have already formed their minds on which line of action to embark upon. This is equally so because, lawyers are usually approached as a fire brigade – when all perceived attempts have failed. For a lawyer to suggest negotiation to such a person is a sheer waste of time. If, however, in the unlikelihood that the client succumbs to settlement, the tendency is for him to resist paying any fees that the lawyer will subsequently ask. The simple reason for this is that since the matter was amicably resolved without going to the battlefield, the lawyer has not done anything so should not be heard to charge any fees. With this type of experience, a majority of lawyers are hesitant to suggest settlement and would rather prefer that the matter be taken to court so that their clients can see them earning their fees legitimately. The data on table 1.3[10] is very revealing of the above fears. When asked whether clients readily pay their fees when matters are amicably settled, 86 respondents out of 90, representing 95.56 percent said clients are reluctant to settle their fees.

f) Apart from that, since most mediators and neutral evaluators view saving of costs as a useful part of settlement and so always insist on small number and realistic time table for completion, lawyers working on hourly fee arrangements see ADR as an attempt to drive a wedge between them and their client thereby depriving them of their principal means of livelihood.

g) Some Lawyers tend to doubt the competence and credibility of people selected as neutrals or mediators and even holds the view that a majority of them are of inferior intellect so could not be relied upon for any reasonable settlement. Most of them just want to 'split the baby' in order to make both sides happy or at least try to avoid alienating either party so as to remain on the list for future business.[11] This gross incompetence of neutrals and mediators is largely due to the fact that in Nigeria there are no institutions to train mediators and in most states of the United States of America, there are stiffer requirements to become a hair stylist than there are to become a mediator. In fact a completion of a 40 hours of

[10] See table 1.3 Appendix.
[11] The Lawyer turns peacemaker, ABA Journal, August 1996, p. 61.

training programme is enough to qualify somebody as a mediator. No doubt one commentator had this to say about United States of America's mediators.

> *There are people out there trying to make money any way possible, taking the training and hanging out their shingle as mediator without having a clue of what they are doing.*[12]

h) The above fears of some lawyers is further compounded not only by the fact that legal niceties and rights are often disregarded in mediation exercise, but also by the fact that arbitration awards are usually made to be final without giving the dissatisfied party the room for appeal. This to this researcher's mind is tantamount to giving mere mortals enormous powers, which is usually abused.

i) The practice of ADR in general and mediation in particular involves people from all walks of life most of them having nothing to do with the practice of law. This may include people like tax assessors, accountants, real estate brokers, surveyors, and experts in other fields. The activities of these persons vis-à-vis the practice of ADR posses some pertinent issues since some of them may indeed be required to give legal advice and draft legal and binding documents – an activity principally reserved for lawyers. This ambivalent position of non-lawyers who are engaged in the practice of mediation and other ADR mechanisms is better appreciated by the dilemma facing such mediator who wants to assure the parties thereto of the confidentiality of the mediation exercise. To clarify the limits of confidentiality, the mediator must explain the law probably by saying that the communications are not privileged but many of the statements would be excluded from evidence as compromise discussions if offered at trial to prove liability or damage. And that the mediator will not disclose any mediation communications unless subpoenaed to do so or unless a serious crime has been admitted or threatened. If the mediator so explains as above, he may be deemed to be engaged in the practice of law which he is not authorised to do.

j) Another angle of dilemma can also be seen where the mediator is a lawyer. In mediating for both parties he may be guilty of representing parties with conflicting interests which is against the ethics of his profession.[13] These conflict provisions are made primarily to ensure loyalty to a client as against any other whose interest might run counter to it.

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[12] Ibid. p. 60.

[13] Rule 10 (a) and (b) Rules of Professional Conduct in the Legal Profession. Federal Republic of Nigeria official Gazette, Government Notice No. 69 of Jan. 1980.

This rationale cannot readily be extended to lawyers who are called upon to negotiate in a dispute because he cannot be said to be championing the course of only one party per se.

The key issue here is whether the activities of a lawyer – mediator actually constitute representation. This is so because the lawyer mediator who is deemed to be representing the disputants appears to be in a confused and untenable position under ADR. Under the rules guiding litigation, it is unprofessional conduct for a lawyer to represent parties with conflicting interests, except by express consent of all concerned parties given after a full disclosure of the material facts.

In line with the above, is the question whether the lawyer-mediator can give legal advice or draft mediated agreements without being said to be representing the disputants. Because of the absence of clear provisions, the Bar Committees in America providing advisory opinion on this and other issues are generally guided by the general goals and policies of the code.[14] Some of the committees like the Boston Bar Association Committee have found the goals and policies of the code best served by permitting the lawyer under defined circumstances to give legal advice and draft the mediated agreement if it will allow the lawyer mediator to assist the public in recognizing legal problems and equally help those who cannot afford the cost of separate counsel.

However, since the committee envisaged that the disputants might be harmed by a lawyer-mediator who pretends to be neutral, some limitations have been placed on lawyer-mediators. To remove the most likely economic incentive to be partial, subsequent representation of any of the parties by the lawyer-mediator is generally prohibited.

The New York City Bar Committee requires the lawyer-mediator to advise the disputants jointly since the type of comprehensive legal advice given from a privileged consultation is not necessary. Thus the lawyer-mediator is expected to explain to the parties the advantages of independent representation and the limit of the advice he gives them. If the parties cannot understand these risks, the committee directs the lawyer mediator not to give any legal assistance while mediating even if the parties consent.[15]

Other Bar Committees like Oregon and New Hamshire have however, indicated that the giving of legal advice and drafting of agreements by the lawyer-mediator would constitutes representation and therefore improper because lawyers are suppose to give advice and draft agreements only when the communications are privileged and their loyalty undivided.[16]

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[14] Nancy, H. and Salem, A. A student's guide to mediation and the law, Metthew Bender & Co, 1987, p. 129.

[15] Ibid. p. 130.

[16] Oregon Code of Professional Responsibilities DRS – 106, 1986.

For some Bar Committees, the situation differs if the parties have independent counsel who will review the mediated agreement before the parties sign it. Ohio State Bar Committee indicates that a pre-execution review of the mediated agreement by an independent counsel cures any conflict of interest problem. Though this position may be helpful, the Boston Bar Committee warns that:

> *A separation agreement cannot really be evaluated by one who has not participated in the negotiations leading to it and, therefore cannot judge whether it appropriately reflects the views, needs, strengths and weaknesses of each of the parties.*[17]

Because of the lack of clear standards and rules for mediators generally, the application of conflict of interest provisions for lawyers who serve as mediators have reached widely varying conclusions in different jurisdictions in the United States of America. However, in 1984, the American Bar Association House of Delegates came up with a standard of practice for lawyer-mediators in family disputes.[18] Hopefully, this welcomed initiative will dovetail to other facets of ADR.

k) Another concern with the use of ADR process is that of selecting the most appropriate process or processes to be used in solving a particular case. This is because the task of recommending an appropriate ADR mechanism be it by clerks, lawyers or a court, is not at all simple since it requires the evaluation of sometimes conflicting factors like what are the disputants' goals in making a forum choice, and if the disputants are amenable to settlement, what are the obstacles to settlement and in what forum might such obstacles be better overcome.[19] Though these inquiries and more would rarely lead to a clear cut answer to the question of forum selection, it nonetheless lend credence to the fact that the question of forum selection is not easy and does not ultimately rest only on the extent to which the various interests of the disputing parties and sometimes public interest will be met in various forums but equally on the proper stating of the problem by the disputants and good analysis of the person responsible for making the recommendation. When a process selection is being made, the question likely to be asked is whether, public interest will be better served by a court or by ADR irrespective of what the parties think. For example, the referral of child custody disputes first to mediation is required by law in several

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17 Boston Bar Association Committee on Professional Responsibilities, 78-1, digested in 5 Fam. L. Rep. 2606, 1976.

18 Nancy and Salem, op. cit., p. 131

19 Sander, F. and Goldberg, B. Fitting the forum to the fuss: A User-Friendly Guide to selecting an ADR procedure, Negotiation journal, Picnum Publishing Co., 1994, p. 61.

jurisdictions in the United States of America.[20] Although the disputing parents may believe that they have no interest in a better relationship but only a vindication and hence prefer court to mediation, many American states believe that a better relationship between the parents serves the public interest by improving the life of the child, and so mandate that child custody disputes go first to mediation.

However, resort to the courts will be preferable if one of the disputant's conduct constitutes a public danger requiring sanctioning or where the dispute raises a significant question of statutory or constitutional interpretation.

1.2.2 Concerns and Fears with regard to Disputants

a) Disputants on their part may constitute a formidable hurdle towards the institutionalization of ADR in Nigeria. Disputants are said to be an unusual subset of people with intractable problems.[21] By the time disputants step into a lawyers chambers, they have, as we earlier said tried informal routes for resolving their problems. They do not like going to lawyers, when they do, it must be when they have formed their minds that litigation is the only way out-which is what lawyers are known to do. Even though most people are not aware of how unsatisfying and frustrating litigation can be, it is that expectation about what they want that takes them to a lawyer's chambers. It has been observed that disputants often have an emotional need for catharsis, for vindication, and for a day in court. Some client even seem to want punishment for their adversary and at the very least a clear victory is often more satisfying to them than an amicable resolution.[22] For a lawyer to suggest ADR to such a client, he may appear to be incompetent or even worse, to be saying to a client who experts a full treatment that his case is not important enough.[23] If however, the client heeds to settlement and the outcome is unsatisfactory, the lawyer will be seen as having given his client wrong advice.

b) If some lawyers are not familiar with ADR, then the ignorance of disputants can better be imagined. Despite the hue and cry about ADR, and the efforts of some state government toward enlightening its citizens, we suspect that if a poll were to be conducted today asking what an individual faced with a dispute would do, most, if not all would simply say "go to court" or see a lawyer. The emphasis given to courts and lawyers as ideal means of resolving disputes in the Nigerian society is too pervasive and so deeply entrenched to be easily disturbed or jettison by the wind of ADR. Even when potential disputants are aware of the existence of alternative to the courts, it is often not easy to locate such mechanism because they have not gained status as public institutions.

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20 Ibid. p. 60.
21 Siemer, op. cit., p. 426
22 Ibid. p. 426.
23 Ibid. p. 426.

c) Also where the disputants are persons or large institutions faced with possible multiple suits on almost similar issues, they may likely opt for a court rather than an amicable settlement, which will lay down precedents to guide the conduct on future disputes. This is so because, courts are guided by precedents and will depart from an earlier judgment on similar facts and issues only for very compelling reasons otherwise they normally follow the ratio decidendi of an earlier case. Since court records are public documents,[24] the judgment will be available to all and sundry and judicial notice taken of their existence. This is not the situation where parties amicably resolve their disputes via ADR Mechanisms. The mediators are usually not guided by precedents and since the records are not available to the public, the tendency is for other parties with similar cases to be treated differently. This will go a long way to enhance proliferation in the number of cases taken for mediation since a party might hope to be lucky in having a better settlement deal than his compatriots. This cannot be said of litigation where the facts are lay bear for every one to see. If your compatriot had gone to court and lose his case, invariably a person with a case on similar facts will have to think twice before going to court since he is about 90 per cent sure that, the faith of his compatriot who lost will be visited on him. If on the unlikelihood, however, that he wins, probably because the court failed to follow the decision of the earlier case, the other party will certainly go on appeal drawing the attention of the appeal court that the judge did not follow the decision laid down in an earlier case.

1.2.3 Concerns and Fears with regard to the Government

a) The Nigerian government is yet to show some good will in the institutionalisation of these novel models of settling disputes in the society. Despite the fact that ADR is still new in this part of the world, the attitude of both the federal and some state government towards funding it has left much to be desired.[25] This invariably means that disputants will be required to pay for ADR services even where judicial services are provided almost free of charge. This in no small way will tend to dissuade citizens from engaging ADR services.

b) Also the lack of enabling statutes by both the Federal and state governments at institutionalizing ADR will definite wreck havoc to this ADR Schemes.

1.3 Overcoming some of the Problems in the use of ADR in Nigeria

a. The unfamiliarity by some lawyers and disputants with ADR and its use must be seriously addressed if meaningful progress is to be made at institutionalizing it in Nigeria. The most potent weapon here is education not only of

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[24] Section 2, Evidence Act 1990.

[25] See commentary on ADR in Kaduna State in the unpublished Ph.D Thesis submitted to Ahmadu Bello University by F.F. Cho titled "Alternative Disputes Resolution and Legal Profession in Nigeria: Issues, Problems and Prospects, 2006 pp. 212 – 218.

lawyers and disputants but also of judges, students and the general public. Education will enable the general public have sufficient knowledge to make informed decisions about selecting appropriate dispute resolution options. It will equally give lawyers ample opportunities for the resolution of their cases and how best to advise their clients at each stage of legal proceedings, and enable judges to understand their role in conducting or supervising the early interventionist role when they are needed to do so. Although many of these efforts are under way, more still have to be done. This researcher very well remember that while as a student in the Nigerian Law School in 1998, for the first time in the history of that great institution, ADR was inserted into the curriculum. This development, which was indeed resourceful and highly welcomed, should not only stop at that level but should be taken down to universities and High Schools as well.

We therefore call on the Nigerian government to give the National University Commission (NUC) the mandate to expand the curricular in all faculties in Nigerian University to include mandatory courses in ADR. They should also be made to encourage the establishment of students' conflict resolution centres (SCRC) by every university at faculty level manned by the students themselves under strict supervision of their lecturers who must have undergone courses on ADR as well. This initiative will go a long way to imbibe in the students that attribute of dialoguing to solve problems and impart on them the practical sense of the available techniques for constructively tackling their day-to-day problems.

When these conflict resolution centres must have been firmly established at faculty level, it could then be extended to a class by class basis, so that if the solution could not come from there only then can it be taken to be solved at the faculty level.

b. The government should set up standard institutions where persons can be trained in the art of ADR as career mediators or neutrals. We propose a two-year intensive training program after a first decree in any of the fields of studies after which successful candidates should be given licenses to practice as ADR providers. They can either be made to open their own private ADR centres or be employed by the government to run the court connected dispute resolution, which is highly recommended in this work. These developments will certainly repose confidence in ADR as a mode of dispute resolution in particular and to the course of justice in general.

c. For ADR to gain impetus as a institution in Nigeria, all hands must be on deck – members of the public, the bar, the bench and other court employees must be carried along to understand its advantages, have respect for its values and be encouraged to resort to same. So the Judiciary at all levels should be saddled with the task of organising seminars, conferences for all concerned parties. They should also carry out mass sensitization both in print and electronic media and the

distribution of pamphlets concerning the basics of ADR in all the major languages in the country. If this is done, then we will have no doubt that the process for the institutionalisation of ADR would have begun.

d. Continuing legal education for lawyers and judges on ADR should be made compulsory. After a series of such education, licenses should be given to deserving persons after which they can fully acts as mediators or neutrals. But all lawyers, whether having been given a license to serve as a neutral or not must be made to first canvass dispute resolution options with their clients in the course of representation before embarking on any court action. Lawyers should be made to show ample proof of having first resorted to ADR. Failure to do so, judges should be given the right to send the case back for negotiation and if such lawyer becomes notorious in not resorting to ADR first, he should be held liable for malpractice.[26]

e. Code of conduct or ethical standards is supposed to be the bedrock of any profession worth its salt. There are no ethical standards yet for the practice of ADR in Nigeria, which will ensure high quality service and win the confidence of both the courts and the public. Ethical standards, the kind that exists for legal practitioners and medical doctors are indeed essential ingredients to promote honesty, integrity and impartiality in the onerous task of discharging ADR services. We therefore call on the Nigerian government to set up a Dispute Resolution Commission (DRC) with the mandate of coming up with clear and unambiguous standards for all persons providing ADR services in Nigeria. These standards should amongst other, addressed concerns like qualification and impartiality of members, informed consent, disclosure of fees, conflict of interest, responsibility to non-participating parties, advertising by members, confidentiality and withdrawal from dispute resolution process. If these standards are made and adopted, it should be made a part of all training and educational programs on ADR in Nigeria.

f. A major step at the institutionalization of ADR in Nigeria must be the enactment of an enabling statute to usher its birth and the making of serious judicial reforms to accommodate ADR as one of the principal means of settling disputes in Nigeria. This enactment is very necessary if the ugly scenario witnessed in Lagos state is to be averted.[27] The statute should create a body that will be responsible for putting all necessary legislative framework towards realizing and actualising the smooth take off of ADR in Nigeria. The Judicial reforms will include for example, the compulsory referral to ADR in specific type of cases to any of the named ADR

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[26] This view is also supported by Prof. Sander. See Sander and Prigoff, A debate on Lawyers Study to canvass ADR options with Client, in Dispute Resolution Negotiation, Mediation and Other processes, op. cit., p. 428.

[27] See commentary on ADR in Lagos State in Alternative Disputes Resolution and Legal Profession in Nigeria: Issues, Problems and Prospects, 2006 pp. 204 – 211.

process or processes and the charging of fees when matters are negotiated out of court.

g. Further more, rather than allow each state to come up with its own procedures and standards for ADR practice as is presently the case, we suggest that a uniform procedure and standard for the entire country be enacted but with avenues to allow various states to reflect their peculiar circumstances as the need may arise. This too will go ways to ensure confidence by disputants in the use of ADR mechanisms.

h. Finally, the governments at all levels should allocate adequate funds for the effective propagation and for administrative overheads if ADR must be entrenched into the Nigeria legal system. ADR centres should be created in all states and local governments as the situation demands. For the mean time bearing in mind the enormous resources that would be needed for its effective take off, the existing court structures should be enhanced to accommodate both litigation and ADR services. This multifaceted disputes resolution centre will kind of broaden the options available to settle dispute at the same access point and will equally go a long way towards improving the quality of justice generally in Nigeria.

1.4 Conclusion

It is our humble opinion that if all these concerns and fears are adequately addressed as suggested above, then Nigeria would no doubt compete favourably with other countries like America vis-à-vis entrenching ADR in its legal systems.

NOTES AND REFERENCES

1. These hybrid species include mini trial, summary jury trial, early neutral evaluation, ombudsman, med-arb etc.

2. Ladan, M.T. *Alternative Dispute Resolution in Nigeria, Benefits, Processes And Enforcement* in Current Themes in Nigerian Law, ILARN, 1998, p. 249

3. Associate Professor Faculty of Law Ahmadu Bello University, Zaria.

4. Ladan., op. cit. p. 249

5. States like Lagos, Kano and even the Federal government established the Abuja multidoor courthouse to implement ADR.

6. See table 1.1 Appendix.

7. Siemer, D. Perspective of advocates and clients on court-sponsored ADR, in Dispute Resolution, Negotiation and processes, Little, Brown and Company Law book Division, 1996 p. 423.

8. See table 1.2 Appendix.

9. Hongkong Dispute solutions, the Journal of the Chartered Institute of Arbitration vol. 58, NO. 2, 1992, p. 10

10. See table 1.3 Appendix.

11. The Lawyer turns peacemaker, ABA Journal, August 1996, p. 61.

12. Ibid. p. 60.

13. Rule 10 (a) and (b) Rules of Professional Conduct in the Legal Profession. Federal Republic of Nigeria official Gazette, Government Notice No. 69 of Jan. 1980.

14. Nancy, H. and Salem, A. A student's guide to mediation and the law, Metthew Bender & Co, 1987, p. 129.

15. Ibid. p. 130.

Oregon Code of Professional Responsibilities DRS – 106, 1986.

Boston Bar Association Committee on Professional Responsibilities, 78-1, digested in 5 Fam. L. Rep. 2606, 1976.

Nancy and Salem, op. cit., p. 131

Sander, F. and Goldberg, B. Fitting the forum to the fuss: A User-Friendly Guide to selecting an ADR procedure, Negotiation journal, Picnum Publishing Co., 1994, p. 61.

Ibid. p. 60.

Siemer, op. cit., p. 426

Ibid. p. 426.

Ibid. p. 426.

Section 2, Evidence Act 1990.

See commentary on ADR in Kaduna State in the unpublished Ph.D Thesis submitted to Ahmadu Bello University by F.F. Cho titled "Alternative Disputes Resolution and Legal Profession in Nigeria: Issues, Problems and Prospects, 2006 pp. 212 – 218.

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See commentary on ADR in Lagos State in Alternative Disputes Resolution and Legal Profession in Nigeria: Issues, Problems and Prospects, 2006 pp. 204 – 211.

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APPENDIX

1. **Table 1.1: Level of awareness of the existence of ADR mechanisms.**

	Frequency	Percentage
Yes	83	92.22
No	7	7.78
Total	90	100

Source: *Chor F.F., An Unpublished Ph.D Thesis Titled – Alternative Dispute Resolution and the Legal Profession in Nigeria: Issues, Problems and Prospects, Submitted to the Post Graduate School A.B.U. Zaria, p. 101, 2006.*

2. **Table 1.2: Reasons for the non-use of ADR Mecahanisms**

	Frequency	Percentage
Lack of awareness	56	83.58
Lack of confidence in ADR	9	13.43
Any other	2	2.99
Total	67	100

Source: *Chor F.F., An Unpublished Ph.D Thesis Titled – Alternative Dispute Resolution and the Legal Profession in Nigeria: Issues, Problems and Prospects, Submitted to the Post Graduate School A.B.U. Zaria, p. 107, 2006.*

3. **Table 1:3: Level of reluctance to pay fees when ADR mechanisms are used to settle disputes.**

	Frequency	Percentage
Great Extent	26	28.89
Some Extent	60	66.67
Not at all	4	4.44
Total	90	100

Source: *Chor F.F., An Unpublished Ph.D Thesis Titled – Alternative Dispute Resolution and the Legal Profession in Nigeria: Issues, Problems and Prospects, Submitted to the Post Graduate School A.B.U. Zaria, p. 107, 2006*

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