

MEDIATION AND CONCILIATION AS ALTERNATIVE MECHANISMS FOR RESOLVING MARITAL DISPUTES IN NIGERIA

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Abstract

Despite measures for expeditious resolution of marital disputes under Nigerian law, there appears to be a longer approach through litigation in resolving matrimonial disputes within the Nigerian legal system. This paper looks at how mediation and conciliation can help resolve the complicated issues that arise from marital disputes. The paper adopts the doctrinal methodology to x-ray these identified mechanisms through legal frameworks, body of scholarly works in this respect among other sources. In continuation, delay in resolving marital disputes appears needless. This is because delays culminate in factors such as emotional strain, financial burden, and child custody battles, as common characteristics of marital disputes, together forming a maze that traditional judicial procedures find difficult to successfully navigate. The paper recommends alternative approaches that can address not only the legal dimensions of the dispute but also the emotional and relational aspects involved. The paper concludes that conciliation and mediation have become crucial instruments in the context of alternative dispute resolution (ADR) for marital disputes.

Keywords: Alternative Dispute Resolution, Mediation, Conciliation, Matrimonial Disputes

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1.0 INTRODUCTION

Conflict is part of everyday occurrences within families and societies globally. Matrimonial disputes are among the most sensitive and complex forms of legal conflicts, often involving not only legal rights but also emotional, social, and familial considerations. In Nigeria, the increasing rate of marital breakdown has led to a corresponding rise in marital disputes such as divorce, custody disputes, maintenance, and division of matrimonial property. Traditionally, such disputes are resolved through litigation under the Matrimonial Causes Act¹, which governs the dissolution of marriage and related matters. However, the adversarial nature of litigation has often been criticised for exacerbating conflicts rather than resolving them amicably.

In recent years, there has been a growing recognition of the importance of Alternative Dispute Resolution (ADR) mechanisms, particularly mediation and conciliation, in resolving matrimonial disputes. Mediation and conciliation provide parties with the opportunity to resolve their differences in a less formal, more flexible, and less confrontational environment. These mechanisms emphasise dialogue, mutual understanding, and voluntary agreement, thereby preserving relationships and promoting amicable settlements. The introduction of the Arbitration and Mediation Act 2023² has further strengthened the legal framework for mediation and conciliation in Nigeria.

While mediation seeks to promote amicable settlement, it may not always be suitable in cases involving domestic violence, coercion, or significant inequality between the parties. The Nigerian courts have, in several cases,

¹ Matrimonial Causes Act Laws of the Federation of Nigeria 2004

² Arbitration and Mediation Act 2023.

emphasised the importance of settlement and reconciliation in matrimonial disputes. For instance, in *Oghoyone v Oghoyone*³, the court highlighted the need for reconciliation efforts before granting a decree of dissolution of marriage. Similarly, in *Nanna v Nanna*⁴, the court stressed that matrimonial proceedings should not be approached purely as adversarial contests but as matters requiring sensitivity and possible settlement.

Notwithstanding these judicial attitudes, the practical implementation of mediation and conciliation in matrimonial disputes in Nigeria remains problematic. Issues relating to enforceability of mediated agreements, lack of institutional support, inadequate awareness, and cultural resistance continue to limit the effectiveness of ADR mechanisms in this area. These challenges create uncertainty as to whether mediation and conciliation can effectively address the complexities of matrimonial disputes or whether they merely complicate an already delicate process.

It is against this background that this paper examines mediation and conciliation in the context of matrimonial causes in Nigeria, with particular focus on the challenges and limitations that give rise to the quagmire surrounding their application. The paper seeks to critically analyse the effectiveness of these ADR mechanisms and to determine whether they provide a viable alternative to litigation in resolving matrimonial disputes.

The first part of this paper introduced the need for further research on mediation and conciliation in resolving marital disputes in Nigeria. The second part shall anatomise the concepts under discourse. The third part

³ *Oghoyone v Oghoyone* (2010) 3 NWLR (Pt 1182) 564.

⁴ *Nanna v Nanna* (2006) 3 NWLR (Pt 966) 1.

shall examine the historical interventions of mediation and conciliation in resolving marital disputes. The fourth part of the paper shall examine the dilemma of marital disputes in Nigeria while the fifth part shall discuss the challenges of engaging mediation and conciliation in resolving marital disputes. Consequently, the sixth part deals with the prospects of engaging of mediation and conciliation while the latter part sieve out the summary of findings, conclusion and recommendations.

2.0 CONCEPTUAL CLARIFICATIONS

2.1 Mediation

Mediation is a voluntary, confidential, and non-adversarial dispute resolution process in which a neutral third party (the mediator) assists disputing parties in reaching a mutually acceptable agreement without imposing a binding decision.⁵ It focuses on facilitating communication and preserving relationships, which is particularly important in matrimonial causes disputes were ongoing relationships, especially involving children, must be maintained.⁶

2.2 Conciliation

Conciliation is a form of alternative dispute resolution in which a neutral third party (the conciliator) plays a more active role than a mediator by proposing terms of settlement and advising the parties on possible

⁵ s 91 Arbitration and Mediation Act (2023)

⁶AS Abiola and A Adisa, 'Legal and Institutional Frameworks for Effective Application of ADR in Marital Disputes' (2025) Fountain University Law Journal.

solutions.⁷ The process is aimed at restoring relationships and promoting amicable settlement of disputes without recourse to litigation.⁸

2.3. Marital Disputes

Marital disputes refer to legal issues arising from marriage, including dissolution of marriage, judicial separation, restitution of conjugal rights, child custody, maintenance, and settlement of matrimonial property.⁹ These disputes are governed primarily by the Matrimonial Causes Act in Nigeria and often involve emotional, social, and legal complexities.¹⁰

2.5 Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution (ADR) refers to a range of mechanisms used to resolve disputes outside the formal court system, including mediation, conciliation, arbitration, and negotiation.¹¹ ADR is generally faster, more flexible, cost-effective, and less adversarial than litigation, making it particularly suitable for resolving sensitive matrimonial disputes.¹²

2.6 Litigation

Litigation is the traditional method of resolving disputes through the court system, where a judge imposes a binding decision after an adversarial process.¹³ In matrimonial matters, litigation is often associated with

⁷ s 91 Arbitration and Mediation Act 2023

⁸ Aderoju, 'The Nigerian Arbitration and Mediation Act (2023) A Comparison with the Arbitration and Conciliation Act 2004 and Global Practices' (2023) International Bar Association.

⁹ Matrimonial Causes Act, Cap M7 Laws of the Federation of Nigeria (2004)

¹⁰ Ibid.

¹¹ Arbitration and Mediation Act 2023

¹² CJ Ubanyionwu, 'Novel Provisions of the Arbitration and Mediation Act 2023' (2023) *Frontline Bar Journal*.

¹³ Black's Law Dictionary (n1)

delays, high costs, and emotional strain, thereby contributing to the quagmire this paper seeks to address.¹⁴

2.7 Access to Justice

Access to justice refers to the ability of individuals to obtain fair, timely, and affordable resolution of disputes through formal or informal mechanisms.¹⁵ In matrimonial causes disputes, barriers such as procedural complexity, cost, and delay often hinder access to justice, thereby making ADR mechanisms like mediation and conciliation more attractive and necessary.¹⁶

3.0 HISTORICAL INTERVENTIONS OF MEDIATION AND CONCILIATION IN MATRIMONIAL CAUSES

Due to their influence on social order and family stability, matrimonial marital conflicts have long been an important part of legal systems. These disagreements, which result from marriages, are particularly difficult to resolve since they frequently entail both emotional and legal difficulties. These issues have been resolved through a variety of methods over the years, including formal litigation, alternative dispute resolution, and customary customs. Matrimonial problems are still challenging to settle successfully in spite of these changing methods, creating a complex web that necessitates the rising use of conciliation and mediation.

3.1 Pre-Colonial / Traditional Era

In pre-colonial Nigeria, the resolution of matrimonial disputes was predominantly governed by customary law and deeply rooted in the

¹⁴ Abiola and A Adisa (n1)

¹⁵ Constitution of the Federal Republic of Nigeria 1999

¹⁶ CJ Ubanyionwu (n1)

social, cultural, and communal values of the people.¹⁷ Marriage was not merely a union between two individuals but an alliance between families and, in some cases, entire communities.¹⁸ Consequently, disputes arising from such relationships were treated as communal concerns rather than purely private matters. The primary objective of dispute resolution during this period was not the determination of rights and liabilities in a strict legal sense, but the preservation of family unity, social harmony, and communal stability.¹⁹

Matrimonial disputes were typically resolved through informal mechanisms involving family heads, elders, and community leaders, who acted as mediators or conciliators.²⁰ These traditional authorities employed dialogue, negotiation, and reconciliation to settle disputes amicably.²¹ The processes were flexible, non-adversarial, and largely devoid of technical legal procedures.²² In many instances, emphasis was placed on restoring relationships rather than dissolving them, reflecting the communal nature of African societies.²³ This approach shares significant similarities with modern mediation and conciliation, particularly in its focus on consensus-building and mutual agreement.²⁴

Furthermore, customary dispute resolution mechanisms were accessible, cost-effective, and expeditious.²⁵ Parties were encouraged to speak openly,

¹⁷ E Elias, *The Nature of African Customary Law* (1956) *Manchester University Press*.

¹⁸ AO Obilade, *The Nigerian Legal System* (1979) *Sweet & Maxwell*

¹⁹ E Elias (n 1).

²⁰ BO Nwabueze, *Nigerian Land Law* (1972) Nwamife Publishers 1972

²¹ AO Obilade (n1)

²² E Elias (n 1)

²³ AO Obilade (n 1)

²⁴ AS Abiola and A Adisa, (n 1).

²⁵ E Elias (n 1).

and decisions were often guided by principles of fairness, equity, and communal values rather than rigid legal rules.²⁶ However, while these systems were effective in maintaining social cohesion, they were not without limitations. Certain customary practices were sometimes influenced by patriarchal norms, which could disadvantage women in matrimonial disputes, particularly in matters relating to custody, inheritance, and property rights.²⁷

Nevertheless, the pre-colonial system of dispute resolution laid the foundational framework for what is now recognized as alternative dispute resolution (ADR).²⁸ The emphasis on reconciliation, informality, and community involvement continues to influence the modern use of mediation and conciliation in resolving matrimonial causes disputes. This historical foundation is essential in understanding the evolution of dispute resolution mechanisms in Nigeria and the persistent relevance of non-adversarial approaches in addressing the quagmire associated with matrimonial disputes.

3.2 Colonial Era

The advent of colonial rule in Nigeria marked a significant turning point in the development of dispute resolution mechanisms, including those relating to matrimonial causes. With the introduction of British administration in the late nineteenth and early twentieth centuries, the English legal system was gradually imposed, leading to the formalization of dispute resolution through courts of law²⁹ This development resulted in

²⁶ AO Obilade (n 2)

²⁷ BO Nwabueze (n 1).

²⁸ CJ Ubanyionwu, 'Novel Provisions of the Arbitration and Mediation Act 2023' (2023) *Frontline Bar Journal*.

²⁹ AO Obilade,(n1)

the gradual displacement and, in some cases, marginalization of indigenous customary dispute resolution mechanisms that had previously governed matrimonial relations.³⁰

During this period, the colonial authorities established formal courts and introduced English law, including statutes, common law, and doctrines of equity, which became applicable in Nigeria subject to local modifications.³¹ Matrimonial disputes, particularly those involving statutory marriages, were increasingly brought within the jurisdiction of these formal courts.³² The emphasis shifted from reconciliation and communal harmony, which characterized customary practices, to the determination of legal rights and liabilities through adversarial processes.³³

Furthermore, the colonial legal system introduced procedural formalism, technical rules of evidence, and legal representation, which significantly altered the manner in which disputes were resolved.³⁴ While this system enhanced legal certainty and uniformity, it also made dispute resolution more complex, expensive, and less accessible to the general population.³⁵ In matrimonial matters, the adversarial nature of litigation often exacerbated conflicts between parties, thereby undermining the possibility of amicable settlement.³⁶

³⁰ E Elias, *The Nature of African Customary Law* (1956) Manchester University Press

³¹ AO Obilade (n 1).

³² BO Nwabueze (n1)

³³ E Elias (n 1)

³⁴ AO Obilade (n 1).

³⁵ E Elias (n 1)

³⁶ AS Abiola and A Adisa, (n1)

Although customary courts were retained to some extent under the colonial administration, their jurisdiction was limited, and they operated under the supervision of colonial authorities.³⁷ As a result, the traditional emphasis on mediation and conciliation was gradually overshadowed by formal litigation.³⁸ This shift laid the foundation for many of the challenges that continue to affect the resolution of matrimonial causes disputes in Nigeria today, including delays, high costs, and procedural rigidity.³⁹

Thus, while the colonial era contributed to the development of a structured legal system, it also marked the beginning of the decline of indigenous, conciliatory dispute resolution mechanisms. This historical transition is crucial to understanding the contemporary quagmire associated with matrimonial causes disputes and the renewed interest in mediation and conciliation as viable alternatives to litigation.

3.3 Post-Colonial / Statutory Development

Following Nigeria's independence in 1960, there was a deliberate effort to develop a coherent legal framework suited to the country's socio-political realities. This period witnessed the consolidation and codification of laws governing matrimonial causes, most notably through the enactment of the Matrimonial Causes Act, which vested jurisdiction over matrimonial disputes in the High Courts and established a uniform legal regime for the dissolution of statutory marriages.⁴⁰ The Act introduced structured legal procedures and clearly defined grounds for divorce, custody, maintenance,

³⁷ AO Obilade (n 1).

³⁸ E Elias (n 2).

³⁹ CJ Ubanyionwu, (n1)

⁴⁰ Matrimonial Causes Act (n1)

and other ancillary reliefs, thereby reinforcing the dominance of litigation in the resolution of matrimonial disputes.⁴¹

In addition, the post-colonial era saw the continued coexistence of multiple legal systems—statutory, customary, and Islamic law—each regulating matrimonial relationships in different contexts.⁴² While customary and Islamic laws retained their relevance, particularly in non-statutory marriages, the formal court system remained the primary avenue for resolving disputes arising from statutory marriages.⁴³ This pluralistic legal framework, though reflective of Nigeria's diversity, contributed to complexities and inconsistencies in the resolution of matrimonial causes disputes.⁴⁴

However, over time, the limitations of litigation became increasingly apparent. Court processes were often characterized by delays, high costs, procedural technicalities, and adversarial hostility, all of which undermined the effective resolution of family disputes.⁴⁵ These challenges contributed significantly to the quagmire associated with matrimonial causes disputes in Nigeria. Consequently, there emerged a growing recognition of the need for alternative mechanisms that are less adversarial and more responsive to the peculiar nature of family disputes.⁴⁶ This realization led to the gradual development and institutionalization of Alternative Dispute Resolution (ADR) mechanisms, particularly mediation and conciliation. The establishment of Multi-Door Courthouses

⁴¹ *ibid*

⁴² AO Obilade (n1)

⁴³ *ibid*

⁴⁴ B O Nwabueze

⁴⁵ AS Abiola and A Adeisa (n1)

⁴⁶ *ibid*

in various states and the enactment of the Arbitration and Mediation Act 2023 marked significant milestones in this regard.⁴⁷ The Act provides a modern legal framework for mediation and conciliation in Nigeria, thereby promoting their use as viable alternatives to litigation.⁴⁸

Notwithstanding these statutory developments, the effective utilization of mediation and conciliation in matrimonial causes disputes remains limited due to factors such as lack of awareness, inadequate institutional support, and cultural resistance.⁴⁹ Thus, while the post-colonial era has witnessed significant legal advancements, the persistence of these challenges continues to sustain the quagmire in the resolution of matrimonial disputes, thereby necessitating further reforms and increased reliance on ADR mechanisms.

4.0 NATURE OF MATRIMONIAL CAUSES DISPUTES

Scholars have consistently emphasized that matrimonial causes disputes are inherently complex due to their emotional, legal, and social dimensions. Oluwabiya⁵⁰ and others, argue that matrimonial disputes are not merely legal conflicts but deeply emotional issues involving broken relationships, psychological distress, and family instability. Their contribution lies in highlighting the emotional sensitivity of such disputes and the need for less adversarial mechanisms. However, their analysis is largely general and does not fully explore the structural implications of these complexities.

⁴⁷ Arbitration and Mediation Act 2023 (n1)

⁴⁸ CJ Ubanyionwu, (n1)

⁴⁹ AS Abiola and A Adisa (n1)

⁵⁰ AA Oluwabiya(n1).

Furthermore, Hassan⁵¹, identifies multiple factors contributing to the complexity of matrimonial disputes, including cultural expectations, societal pressures, and procedural challenges within the legal system. His contribution lies in recognizing the interplay between legal and social factors. However, the study lacks an in-depth exploration of how these factors collectively create systemic difficulties in dispute resolution.

In the same vein, Uzoka and Onah⁵², emphasize that matrimonial disputes are characterized by prolonged conflict and breakdown of relationships, often worsened by court processes. They contribute by demonstrating how legal procedures can intensify disputes. Nonetheless, their study does not critically analyse the underlying legal framework governing matrimonial causes.

Additionally, Abiola and Adisa,⁵³ highlight that matrimonial disputes are shaped by institutional and legal structures that often fail to address their sensitive nature. They contribute by linking legal frameworks to the complexity of disputes. However, their work does not fully conceptualize these complexities as part of a broader “quagmire.”

Similarly, Omoniyi,⁵⁴ observes that matrimonial disputes often involve intense emotional strain, particularly where issues of child custody and maintenance are involved. He notes that litigation tends to aggravate these tensions due to its adversarial nature. His contribution lies in linking emotional complexity to the inadequacy of litigation. However, his work

⁵¹ O Hassan, ‘An Appraisal of the Application of ADR Mechanisms to Marital Disputes in Nigeria’ (2023) SSRN.

⁵² NC Uzoka and CA Onah, (n1)

⁵³ AS Abiola and A Adisa, (n1)

⁵⁴ AA Omoniyi, (n1).

does not sufficiently examine the broader social and cultural factors influencing matrimonial disputes.

From the foregoing, it is clear that matrimonial causes disputes are multifaceted, involving emotional, legal, and social complexities that distinguish them from ordinary civil disputes. While scholars acknowledge these dimensions, existing literature tends to address them in isolation rather than as an interconnected whole. There is limited effort to conceptualize these overlapping challenges as a unified “quagmire” requiring a holistic approach. This study therefore seeks to bridge this gap by providing a comprehensive analysis of the complex nature of matrimonial causes disputes and examining how mediation and conciliation can effectively address these intertwined challenges.

4.1 ADR vs Litigation

Scholars have extensively compared Alternative Dispute Resolution (ADR) with litigation, particularly in the context of matrimonial disputes, and have largely emphasized the superiority of ADR in addressing the unique nature of family conflicts. Omoniyi⁵⁵, argues that litigation is often characterized by delay, high cost, and adversarial hostility, which tend to aggravate disputes rather than resolve them. He posits that ADR mechanisms, particularly mediation, offer a more flexible, confidential, and less confrontational approach. His contribution lies in highlighting the inefficiencies of litigation and the advantages of ADR. However, his work tends to generalize ADR as a universal solution without critically examining its limitations.

⁵⁵ AA Omoniyi, (n1)

Similarly, Oluwabiyi⁵⁶ strongly assert that litigation is ill-suited for matrimonial disputes due to its rigid procedures and inability to address emotional and relational concerns. They argue that ADR promotes cooperation and amicable settlement, making it more appropriate for family disputes. Their contribution lies in demonstrating the relational advantages of ADR over litigation. Nonetheless, their analysis lacks a detailed evaluation of the practical challenges of ADR implementation.

In the same vein, Hassan⁵⁷ identifies delays, procedural complexity, and cost as major drawbacks of litigation. He argues that ADR mechanisms provide a faster and more cost-effective alternative. His contribution lies in identifying the systemic weaknesses of litigation. However, the study does not sufficiently examine how ADR mechanisms can be effectively integrated into the existing legal system.

Furthermore, Uzoka and Onah⁵⁸, emphasize that litigation often leads to prolonged conflict and breakdown of relationships, whereas ADR encourages early settlement and reconciliation. Their contribution lies in advocating for the adoption of ADR at the early stages of dispute resolution. However, their work does not critically assess the legal and institutional barriers to such early intervention.

In addition, Abiola and Adisa⁵⁹, argue that ADR enhances access to justice by providing a more accessible, flexible, and less expensive alternative to litigation. They highlight the role of institutional frameworks in supporting ADR. However, their analysis does not fully

⁵⁶ AA Oluwabiyi (n1)

⁵⁷ O Hassan (n1)

⁵⁸ Uzoka and Onah (n1)

⁵⁹ Abiola and Adisa (n1)

explore the comparative limitations of ADR or its practical enforcement challenges.

From the foregoing, it is evident that scholars overwhelmingly favour ADR over litigation in resolving matrimonial disputes due to its flexibility, cost-effectiveness, and ability to preserve relationships. However, the literature reveals notable gaps. Many studies adopt a one-sided approach by emphasizing the advantages of ADR without critically examining its limitations or the challenges of implementation.

3.0 LITERATURE REVIEW

The following works of leading experts in the area of Family Mediation in Nigeria, Effective Application of ADR in Marital Disputes, and Settlement of Matrimonial Disputes in Nigeria are considered

Mediation in Marital Dispute

Usulor,⁶⁰ makes a significant contribution to the discourse on mediation in matrimonial disputes by emphasizing that family conflicts require dispute resolution mechanisms that go beyond the determination of legal rights to addressing the underlying relational and emotional issues between parties. He argues that mediation is particularly suitable for matrimonial disputes because it facilitates communication, preserves relationships, and promotes amicable settlements, especially in matters involving divorce, child custody, and family property.

His work does not provide a detailed framework for the practical integration of mediation within Nigeria's matrimonial dispute resolution system. This paper therefore builds on his insights by adopting a more

⁶⁰ C Usulor, 'An Exploratory Study of Family Mediation in Nigeria' (2023) SSRN.

holistic approach that examines both mediation and conciliation, while also addressing the broader quagmire and proposing practical solutions for enhancing the effectiveness of ADR in matrimonial causes disputes.

Abiola and Adisa,⁶¹ argue that mechanisms such as mediation and conciliation provide a less adversarial, cost-effective, and relationship-preserving alternative to litigation, particularly in sensitive family matters involving custody, maintenance, and property settlement. The scholars highlight the role of Multi-Door Courthouses in promoting ADR and improving access to justice. However, despite these contributions, their work does not fully conceptualize the complexities surrounding matrimonial disputes as a “quagmire,” nor does it sufficiently distinguish between mediation and conciliation as separate but complementary mechanisms.

in the same vein, Olabisi⁶² argue that mediation is more suitable than litigation due to its ability to reduce hostility and promote amicable settlement. Their paper contributes by demonstrating the psychological and emotional benefits of mediation in family disputes. However, the analysis is largely descriptive and lacks a critical examination of the practical challenges affecting mediation in Nigeria.

Furthermore, Omoniyi,⁶³ highlighted the shortcomings of litigation, including delay and emotional strain, thereby reinforcing the need for mediation. However, his work tends to portray mediation as a universal

⁶¹ AS Abiola and A Adisa, (n!)

⁶² AA Oluwabiyi (n1).

⁶³ *ibid*

solution without critically examining its limitations or implementation barriers.

Hassan⁶⁴, identified mediation as a viable mechanism for dispute resolution but notes that its effectiveness is hindered by factors such as lack of awareness, cultural resistance, and inadequate institutional support. His contribution lies in highlighting the practical challenges facing mediation in Nigeria. Nonetheless, the paper does not provide detailed policy recommendations for addressing these challenges.

Similarly, Uzoka and Onah⁶⁵, emphasize the importance of mediation in resolving marital conflicts and argue that it should be adopted as a primary dispute resolution mechanism rather than a last resort. Their contribution lies in advocating for early intervention through mediation. However, their work does not sufficiently analyse the structural and legal constraints affecting its widespread adoption.

From the above Scholars generally agree that mediation is an effective, non-adversarial, and cost-efficient mechanism for resolving matrimonial disputes while preserving relationships. However, gaps remain, as most studies focus mainly on mediation with little attention to conciliation, fail to conceptualize matrimonial disputes as a multifaceted “quagmire,” and often lack practical, policy-driven solutions. This paper addresses these gaps by adopting a holistic approach that examines both mediation and

⁶⁴ O Hassan, ‘An Appraisal of the Application of ADR Mechanisms to Marital Disputes in Nigeria’ (2023) SSRN.

⁶⁵ NC Uzoka and CA Onah, ‘Resolution of Marital Conflicts: ADR Mechanisms to the Rescue’ (2024) NAU Journal of Private and Property Law.

conciliation within the broader context of the quagmire of matrimonial causes disputes.

Conciliation in Dispute Resolution

Yemisi⁶⁶ explains that conciliation involves a neutral third party who not only facilitates communication but may also propose terms of settlement to guide parties toward resolution. This distinguishes conciliation from mediation, where the neutral party plays a less directive role. Yemisi's contribution lies in clarifying the procedural and functional dynamics of conciliation within the ADR framework. However, the paper is largely general and does not specifically address its application in matrimonial causes disputes.

Similarly, Adekile⁶⁷, examines the statutory and procedural basis for reconciliation and conciliation in marital disputes. She argues that conciliation plays a vital role in promoting amicable settlement and preserving family relationships. Her work contributes by linking conciliation to existing legal frameworks in Nigeria. Nevertheless, the analysis tends to conflate reconciliation with conciliation and does not clearly distinguish the two concepts, thereby limiting conceptual clarity.

In addition, Ubanyionwu,⁶⁸ noted that conciliation, like mediation, is aimed at facilitating settlement but allows for a more proactive role by the

⁶⁶ Yemisi, 'Alternative Dispute Resolution and Collective Conciliation in Nigeria: A Review of Contemporary Literature' (2017) *International Journal of Business and Management*.

⁶⁷ OM Adekile, 'Legal Framework for Settling Marital Disputes through Reconciliation in Nigeria' (2009) SSRN.

⁶⁸ CJ Ubanyionwu, 'Novel Provisions of the Arbitration and Mediation Act 2023' (2023) *Frontline Bar Journal*.

neutral third party. His contribution lies in demonstrating the evolving legal framework supporting conciliation. However, the paper focuses more broadly on ADR reforms and does not provide an in-depth analysis of conciliation in matrimonial disputes.

Furthermore, Hassan,⁶⁹ acknowledges conciliation as a useful mechanism in resolving marital disputes but emphasizes that its effectiveness is hindered by factors such as lack of awareness, cultural resistance, and weak institutional structures. His work contributes by identifying practical challenges affecting conciliation. However, it does not sufficiently distinguish conciliation from mediation or explore its unique advantages in matrimonial dispute resolution.

Similarly, Okene *et al*⁷⁰, in discuss conciliation alongside other ADR mechanisms and argue that it provides a platform for amicable settlement through guided negotiation. Their contribution lies in highlighting the relevance of conciliation within the broader ADR framework. Nonetheless, their work treats conciliation in a generalized manner and does not critically analyse its distinct role or effectiveness in comparison to mediation.

From the above, it is evident that scholars are largely unanimous in recognizing mediation as an effective and desirable mechanism for resolving matrimonial disputes due to its non-adversarial nature, cost-effectiveness, and ability to preserve relationships. However, the literature reveals several gaps. First, most studies focus predominantly on mediation

⁶⁹ O Hassan, (n1)

⁷⁰ OVC Okene and others, 'Application of ADR in Settlement of Matrimonial Disputes in Nigeria: A Legal Appraisal' (2023).

without adequately examining conciliation as a complementary mechanism. Second, there is limited conceptualization of matrimonial disputes as a complex “quagmire” involving legal, cultural, emotional, and institutional challenges. Finally, the studies are descriptive and fail to provide comprehensive, policy-driven solutions for improving the practical application of mediation in Nigeria. This study therefore seeks to bridge these gaps by adopting a holistic approach that examines both mediation and conciliation within the broader context of the quagmire of matrimonial causes disputes.

4.0 THE DILEMMA OF MATRIMONIAL CAUSES DISPUTES IN NIGERIA

Notwithstanding the historical evolution of dispute resolution mechanisms in Nigeria from the conciliatory and community-based systems of the pre-colonial era, through the adversarial framework introduced during the colonial period, to the modern statutory recognition of ADR—matrimonial causes disputes continue to be plagued by significant challenges.⁷¹ The persistence of these challenges underscores the existence of a quagmire in the resolution of such disputes, characterized by delays in court proceedings, high cost of litigation, procedural complexities, and the emotionally charged nature of matrimonial conflicts.⁷²

Although the emergence of mediation and conciliation as integral components of the Nigerian legal system was intended to address these deficiencies, their practical effectiveness has been limited.⁷³ Factors such as lack of awareness among litigants, insufficient institutional support,

⁷¹ AS Abiola and A Adisa, (n1)

⁷² *ibid*

⁷³ CJ Ubanyionwu, (n1)

cultural and religious considerations, and the absence of a strong enforcement framework have hindered the widespread adoption of ADR in matrimonial causes disputes.⁷⁴ Consequently, many parties continue to resort to litigation, despite its well-documented shortcomings, thereby perpetuating the cycle of inefficiency and dissatisfaction within the system.

Furthermore, the pluralistic nature of Nigeria's legal system, which accommodates statutory, customary, and Islamic laws, has contributed to inconsistencies in the application of dispute resolution mechanisms in matrimonial matters.⁷⁵ This has further complicated the effective integration of mediation and conciliation into the legal framework, thereby reinforcing the quagmire that this paper seeks to interrogate.

It is against this backdrop that this research critically examines the role of mediation and conciliation in addressing the complexities associated with matrimonial causes disputes in Nigeria. By evaluating the legal frameworks, institutional structures, and practical challenges, this study aims to determine the extent to which these alternative mechanisms can provide effective solutions to the enduring quagmire in matrimonial dispute resolution.

5.0 CHALLENGES OF MEDIATION AND CONCILIATION IN MATRIMONIAL CAUSES DISPUTES IN NIGERIA

Although mediation and conciliation are increasingly acknowledged in Nigeria as useful tools for settling marriage problems, there are still a number of obstacles to overcome in their actual implementation. These

⁷⁴ AS Abiola and A Adisa (n 1).

⁷⁵ AO Obilade, (n1)).

obstacles are caused by institutional, legal, cultural, and procedural elements that restrict the efficacy and broad use of alternative dispute resolution (ADR). As a result, these restrictions add to the ongoing quagmire in the resolution of marital disputes rather than easing their difficulties.

5.1 Overreliance on Litigation

The Nigerian legal system remains predominantly adversarial, with courts serving as the primary forum for resolving matrimonial disputes. Despite the availability of ADR mechanisms, parties and legal practitioners still prefer litigation, leading to delays, high costs, and prolonged emotional conflict.

5.2 Lack of Awareness and Public Enlightenment

Many parties to matrimonial disputes are unaware of mediation and conciliation as viable alternatives to litigation. This low level of awareness significantly limits the utilization of ADR mechanisms.

5.3 Absence of Mandatory Mediation Framework

Unlike jurisdictions such as the United Kingdom, mediation in Nigeria is largely voluntary. The absence of a mandatory pre-litigation mediation requirement reduces its effectiveness and allows parties to bypass ADR entirely.

5.4 Weak Institutional Support

Although institutions like the Lagos Multi-Door Courthouse exist, ADR centres are not evenly distributed across the country. Many regions lack access to structured mediation services, limiting nationwide effectiveness.

5.5 Inadequate Professional Regulation

There is insufficient regulation and standardization of mediators and conciliators, despite the role of bodies like the Institute of Chartered Mediators and Conciliators. This can affect the quality and credibility of mediation processes.

5.6 Cultural and Religious Barriers

In some Nigerian communities, matrimonial disputes are influenced by cultural and religious beliefs, which may discourage formal mediation or create bias in informal processes. This can hinder neutrality and fairness.

5.7 Enforcement Challenges

Although mediation agreements are recognized, enforcement mechanisms are sometimes weak or unclear, leading parties to doubt the effectiveness of ADR outcomes.

5.8 Power Imbalance Between Parties

Matrimonial disputes often involve unequal power dynamics (e.g., financial, emotional, or social), which can undermine the fairness of mediation.

6.0 PROSPECTS OF MEDIATION AND CONCILIATION IN MATRIMONIAL CAUSES DISPUTES IN NIGERIA

Despite the difficulties in using mediation and conciliation to settle matrimonial causes conflicts in Nigeria, there are a lot of opportunities for their growth and efficacy. These opportunities are fuelled by changing legislative frameworks, institutional expansion, growing consciousness, and the impact of global best practices. When taken as a whole, they offer chances to improve alternative conflict resolution procedures and lessen the complexity of resolving marital disputes.

6.1 Improved Legal Framework

The enactment of the Arbitration and Mediation Act 2023 provides a modern statutory foundation for mediation and conciliation. This strengthens the legitimacy of ADR by providing clearer rules on mediation processes and settlement agreements. It also enhances confidence among parties and legal practitioners, making ADR more acceptable in resolving matrimonial disputes.

6.2 Expansion of ADR Institutions

Institutions such as the Lagos Multi-Door Courthouse and other Multi-Door Courthouses are expanding across Nigeria. This expansion improves accessibility to mediation services and reduces dependence on courts. As more centres are established, ADR becomes more available to individuals across different regions.

6.3. Growing Awareness and Acceptance

There is increasing awareness among the public and legal practitioners about the benefits of mediation and conciliation. As more people understand that ADR is faster, less costly, and less hostile than litigation, there is a gradual shift toward its adoption, particularly in sensitive family disputes.

6.4 Judicial Support for ADR

Courts are increasingly encouraging settlement through mechanisms such as pre-trial conferences under civil procedure rules. Judicial encouragement plays a key role in promoting ADR, as parties are more likely to consider mediation when directed or advised by the court.

6.5 Professional Development and Training

Bodies such as the Institute of Chartered Mediators and Conciliators continue to train and certify mediators. Improved professionalism enhances the quality and credibility of mediation, ensuring that disputes especially matrimonial ones are handled with the required expertise and sensitivity.

6.6 Influence of International Best Practices

Lessons from jurisdictions such as the United Kingdom, United States, and South Africa are influencing reforms in Nigeria. Adopting practices such as mandatory mediation, court annexed ADR, and culturally sensitive dispute resolution can significantly improve Nigeria's system.

6.7 Suitability of ADR for Matrimonial Disputes

Mediation and conciliation are inherently suited to resolving family disputes due to their non-adversarial nature. They promote reconciliation, preserve relationships, and reduce emotional strain, making them more effective than litigation in matrimonial matters.

7.0 SUMMARY OF FINDINGS

7.1 Predominance of Litigation over ADR

The study finds that matrimonial causes disputes in Nigeria are predominantly resolved through litigation rather than mediation or

conciliation. Despite the availability of ADR mechanisms, the legal system remains largely adversarial. This overreliance on litigation results in delays, high costs, and increased hostility between parties, thereby reinforcing the quagmire in matrimonial dispute resolution.

7.2 Limited Utilization of Mediation and Conciliation

Mediation and conciliation, though recognized within Nigeria's legal framework, are not widely utilized in practice. Their largely voluntary nature allows parties to bypass them entirely. Additionally, low awareness and lack of confidence in ADR mechanisms contribute to their underutilization.

7.3 Weak Implementation of Legal and Institutional Frameworks

The study reveals that existing legal and institutional frameworks for ADR are inadequately implemented. While statutes and institutions exist, their effectiveness is limited by weak enforcement, insufficient infrastructure, and uneven distribution of ADR centres, which restrict access and reduce impact.

7.4 Complexity of Matrimonial Causes Disputes

Matrimonial disputes are inherently complex, involving emotional, social, and legal dimensions. This complexity makes adversarial litigation unsuitable, as it often escalates conflict. In contrast, mediation and conciliation are better suited to address these multifaceted issues, particularly in preserving relationships.

7.5 Influence of Cultural and Religious Factors

Cultural and religious considerations significantly shape the resolution of matrimonial disputes in Nigeria. While these factors support informal

reconciliation processes, they may also hinder the adoption of formal ADR mechanisms or introduce bias, thereby affecting consistency and fairness.

8.0 Recommendations

a. Introduction of Mandatory Pre litigation

Nigeria should adopt a system of mandatory or pre-litigation mediation in matrimonial causes disputes, similar to the approach in the United Kingdom. This will ensure that parties attempt amicable settlement before resorting to litigation, thereby reducing court congestion, cost, and hostility associated with matrimonial disputes.

b. Expansion of ADR Institutions

ADR institutions such as the Lagos Multi-Door Courthouse should be expanded across all states in Nigeria. This will improve accessibility to mediation services and ensure that ADR mechanisms are available nationwide, particularly in underserved areas.

c. Public Awareness and Sensitization

Government and stakeholders should intensify efforts to promote awareness of mediation and conciliation. Increased awareness will lead to greater acceptance and utilization of ADR, especially in matrimonial disputes where amicable resolution is crucial.

d. Professional Training and Regulation

The capacity of mediators and conciliators should be enhanced through proper training and regulation by bodies such as the Institute of Chartered Mediators and Conciliators.

This will ensure professionalism, improve the quality of ADR processes, and build public trust in mediation outcomes.

9.0 CONCLUSION

This paper has examined the role of mediation and conciliation in addressing the complexities of litigating marital disputes in Nigeria. It reveals that although these alternative dispute resolution mechanisms are recognized within Nigeria's legal and institutional frameworks, their practical application remains limited and largely ineffective. The dominance of litigation, coupled with procedural delays, high costs, and emotional strain, continues to undermine the efficient resolution of matrimonial disputes.

The study further establishes that matrimonial causes disputes are inherently complex, involving emotional, social, and legal dimensions that make adversarial litigation unsuitable. In contrast, mediation and conciliation offer more flexible, less hostile, and relationship-preserving approaches that are better suited to the nature of family disputes. However, challenges such as lack of awareness, weak institutional support, absence of mandatory mediation, and cultural influences have hindered their effectiveness in Nigeria. The challenges are surmountable if the legal and institutional frameworks adopt the recommendations therein within the lens of the prospects explained in this paper.