

**IMPACT OF ALTERNATIVE DISPUTE RESOLUTION FOR
JUSTICE DELIVERY IN NIGERIA: A STUDY OF PUBLIC
COMPLAINTS COMMISSION ABUJA**

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ABSTRACT: This study examines the impact of alternative dispute resolution for justice delivery in the Public Complaints Commission, Abuja, Nigeria. A descriptive survey research design was adopted and the population of the study consisted of mostly public servants from the Federal Secretariat Abuja, a few business owners and adult students/lecturers. However, due to the large size of the entire population, it becomes reasonable for some proportion of the population to be selected to represent the overall population. Thus, two hundred respondents were targeted for the study while the Taro Yamane formula was used to determine 133 samples from the target population. In selecting respondents, a judgmental procedure was adopted. A questionnaire structured in Likert's five-point scale was used for data collection. Data were analysed using simple percentages. Results revealed that all the means (continuous follow-up visits to offenders, ensuring proper collaboration between other agencies, engaging the duties of the police when necessary) employed by the commission, enforce its decision and recommendations. More so, findings further revealed that all the factors (provision of adequate funding, training programmes for officers, improvement in service condition, employment of qualified professionals in the commission) considered in this study affect the role of government in assisting the commission to discharge her duties. Based on the empirical evidence from the findings, the researcher recommends that the Commission should embark upon aggressive publicity of its activities, using electronic and print media. Such publicity must touch the rural communities, the public servants, the labour unions, the civil society organizations, to mention but a few. The Commission should endeavour to organize seminars or workshops for various Chief Executives of Public Organizations.

Keywords: Dispute, Justice Delivery, Complaints, Alternative Dispute Resolution, Public, Public Complaints Commission

INTRODUCTION

The history of dispute resolution probably goes back to the dawn of time. Humans have been negotiating and settling disputes formally and informally well before historical journals recorded human endeavour in the field of dispute resolution. The inherent desire of humans to resolve conflicts means that dispute resolution is one of the oldest disciplines known to mankind. The formalization of Alternative Dispute Resolution (ADR) was arguably brought about by an American Litigation lawyer called Eric Green, who first used the term in an article entitled "settling large case litigation: an alternative approach" (Belling, 1984). Alternative Dispute Resolution is a term often used to describe a wide variety of dispute resolution mechanisms that are short of or alternative to full-scale court processes. Also, Alternative Dispute Resolution refers to the set of mechanisms a society utilizes to resolve disputes without

resort to costly adversarial litigation. It is an approach designed as a substitute to the rigorous and time-consuming litigation approach to dispute settlement. It is described as an alternative to adversarial process such as litigation that results in win/lose outcomes.

Alternative dispute resolution can be described as an effort to arrive at mutually acceptable decisions. It involves the application of methods, procedures and skills designed to achieve an agreement that is satisfying and acceptable to all parties. It offers a more conciliatory means, quicker and less expensive platform for resolving disputes in contrast to the procedures of seeking justice and fairness or even redress, in a law court. More importantly, Alternative dispute Resolution mechanism is flexible, promotes and protects the privacy of aggrieved parties, creates calm and friendly atmosphere for parties to discuss, agree and disagree before reaching amicable and endorsable agreement.

During the colonial period in Nigeria, courts of law were introduced as at when the British administration required them. From the 1840s, merchants established “equity courts” to regulate trade on the Bight of Biafra, and in the Upper Niger and Benue basins. Ten specialized courts were established in the Colony and Protectorate of Lagos between 1861 and 1874. These systems were amalgamated into one political and administrative entity, with a common legal system, from 1906 to 1916. (Onyema & Odibo, 2017). Although not immediately available to all Nigerians, the introduction of formal court processes and litigation provided those in the cities with a new means of pursuing their grievances. For many, this new legal system had one major comparative advantage: enforcement. The colonial state had the authority to imprison misfeasors or confiscate their assets, potentially even awarding compensation to the aggrieved party. It should be noted that Alternative Dispute Resolution is not alien to Nigeria customs and traditions. In traditional Yoruba and Igbo villages and towns, for instance Alternative dispute resolution is commonly employed to resolve cases among communities, families, people or groups. The aggrieved individual or parties consult the community head(s) or even the king where applicable. The community head in turn invites the other party /parties to a meeting at a set date and place, when and where the parties meet in order to resolve issues.

This method of conflict resolution has resolved major conflicts and brokered peace where war, protest, or fracas would have resulted. Most recently, the Alternative Dispute Resolution in Nigeria is regulated by the Arbitration and Conciliation Act (ACA) applicable to the whole Federation. The Constitution of the Federal Republic of Nigeria 1999 (as amended) also gives constitutional backing to ALTERNATIVE DISPUTE RESOLUTION in section 19. which provides for the Arbitration, Conciliation, Negotiation and Adjudication (Jegede & Idiaru, 2021).

Today, the application of Alternative Dispute Resolution (ADR) to resolve conflicts is becoming more and more preferred than litigation in various fields and works of life. It is employed to settle contractual disputes in employment and labour laws, marriage and divorce issues and also in consumer protection and product liability cases. Alternative Dispute Resolution mechanism promotes dialogue and preserves relationship where possible. Moreover, it is worthy of note that, different conflicts may require different ADR approach. For instance, family conflicts can be resolved via methods which are at variance with community conflicts, also marriage disagreements or issues of divorce and child custody are resolved differently from disputes relating to extended family, likewise in commercial transactions among others (Onyema & Odibo, 2017).

Observably, a number of efforts have been put in place to advance justice delivery through various recommendable Alternative Dispute Resolution (ADR) mechanisms. Nevertheless, they have been under-utilized. For the judiciary, delivery of justice is cardinal. The arm of government interprets and applies the laws of the land to ensure impartial justice delivery. Certainly, litigation is one important aspect of delivering justice since it is widely known to be managed by the learned administrators of the law who should uphold justice by all means. However, accruing costs, delays in litigation procedures, congestion in courts, all-too legalistic procedures and intimidating court-room atmosphere are factors that have created a state of affairs which has brought about increasing dissatisfaction with litigation among disputants and other stakeholders and has necessitated the development of more flexible means of dispute resolution. Observably, some 54% of Nigerians surveyed by Afro barometer stated that they were unable to understand the legal process and procedures; 48% could not obtain legal counsel or advice; and 44% left court feeling that their side of the story had not been heard.

Against this backdrop, the study examines the impact of Alternative Dispute Resolution for justice delivery in Nigeria, using the Public Complaints Commission Abuja, 2015-2021.

Specifically, the study examines:

1. the efforts made by the Commission, Abuja in enforcing its decisions and recommendations;
2. government's role in assisting the Public Complaints Commission, Abuja, in discharging its duties.

LITERATURE REVIEW

Concept of ombudsman

As new system of extra- Judicial and extra legislative control administration came into existence due to some limitation in the handing of social Justice. The system in its modern form first arose in Sweden in 1809 under the name of Ombudsman which literally means "Public Prosecution". At inception, the institution of Ombudsman was created by Swedish, King Charles XII to supervise the execution of the laws. It was later appointed by the parliament called "the Riksdag" to review the acts of government officials and administration with a view to ensuring that citizens' rights were properly protected. However the Ombudsman institution can be traced back to the dynasty in China between 202BC and 221AD. Another version of its history is that it was debited in Saudi Arabia during the time of the second Caliph Omar Bin I – Lattab. The idea gradually spread all over the Islamic Kingdoms of the middle East and was eventually developed in Turkey from here the nation was transplanted to Sweden which has now become the home of modern ombudsman (Osakede & Ijimakinwa, 2014).

The ombudsman institution remained localized in Sweden for a full century until it was borrowed by Finland, in 1909, from the Finland; it went to Denmark in 1953 and to Norway. In 1963 and 1966, the ombudsman came out of Scandinavian habitat and was adopted by New Zealand, a commonwealth country which renamed it as "parliamentary Commission for administration" but with exactly the same role as the Scandinavian ombudsman. In 1967, Britain founded her ombudsman and today, it has two kinds namely; the parliamentary commissioners of Administration, and the college of three commissioners of local government administration (Evans, 1980). The system of the ombudsman has since continued to grow and

the acquired a world-wide some of the twenty – four countries that have adopted the institution. According to Eze (1984), in Africa, Tanzania was the first to adopt ombudsman in 1970. Other African countries that have adopted ombudsman institution are Ghana, Sudan, Zambia commission for investigations and Nigeria (where it is designated as the public complaints commission).

In Nigeria, it was Mr. Justice Ayoka who recommended in his report on civil disturbance in the western states that Government should consider the possibility of establishing or using ombudsman to aid justice delivery. (Illuyomade & Eka, 1980). The government was unable to accept this recommendation on the grounds of cost and the duplication of efforts. Towards the end of the Nigeria civil war in January, 1970, a strong opinion began to build in support of some tentative mechanisms for protecting the ordinary citizens from the powerful state bureaucracy. Accordingly, a clear distinction has been made between the ombudsman and the court. The court is concerned with both legal and moral injustices. Justice Oputa touched on this distinction when he stated that the “court is not a court of morals” (Obiagba, 1993). Corroborating, Rowat, (1973) also reflected on this distinction in the following words; “... the ombudsman’s method of handling appeals, against administrative decision is unlike that of the court – direct, informal, speedy and cheap”.

Alternative dispute resolution

The construct “Alternative dispute resolution” is examined using two basic conceptual models link. The conceptual models of Justice and Dispute.

Concept of Justice

The development of the justice system in Nigeria dates far back to the pre-colonial era., Justice plays an important role in the development of Nigeria especially when it comes to the creation of

an inclusive society where efficiency and fair justice delivery is at the core of national aspirations (Matibini, 2001). Justice entails empowerment of individuals to shape decisions about their own lives and on terms that are meaningful to them. Some leading theorists like John Rawls refer to justice as fairness. John Rawls presents the main idea of justice as fairness, generalized and carried to equality in the assignment of basic rights and duties, any theme of Alternative Dispute Resolution must be the concept of justice and it is for this reason that ADR is also known as ‘participatory justice’. The mechanism provides full opportunity of hearing and active participation of parties during the settlement proceedings. The system offers a spirit of compromise amongst the litigants across the table, which explains the important concept of distributive justice and that is the main purpose and object behind the justice delivery system (Dass, Petersen, Visser & Omori, 2020).).

It is accepted in theory that justice must be delivered with speed and efficiency, in practice, court machinery is often costly and slow, the courts tend to intimidate and confuse parties with their formal procedures, and in some cases tend to deliver outcomes that seem not to reflect the interests or values of any of the parties (Musa, 1989). The problems that disputants have encountered in the courts in their pursuit of justice have raised serious doubts among the people regarding the capacity of courts to deliver justice to litigants in a meaningful and acceptable manner. From this viewpoint, access to justice means allowing people to take an active part in

the resolution of their dispute, in such a way that the parties do not feel that they have been coerced into accepting a particular decision or forced into some form of compromise that is less than satisfactory. Matibini (2001) observes that while access is made available, it is important to note that most people cannot use the legal system effectively without the assistance of specialist legal service providers. Consequently, without such help, access to the legal justice system is difficult or impossible.

Concept of Dispute

A dispute may be defined as a class of conflict which manifests itself in distinct, justifiable issues. A dispute is a short-term disagreement that can result in the disputants reaching some sort of resolution. It involves disagreement over issues capable of resolution by negotiation, mediation or any other dispute resolution process involving a neutral third party. Disputes are amenable to resolution by dispute resolution processes. It was noted by Haller (2010) that an 'actual' dispute will not exist until a claim is asserted by one party which is 'disputed' by the other. A dispute may relate to rights, status, reputation, lifestyle, quantifiable monetary claim or any other aspect of personal or commercial activity. The issue can be single or a variety of issues, they may range from being simple to very complex.

Objectives of the Public Complaints Commission under the law in Nigeria

Public Complaints Commission assists the aggrieved individual citizens or persons resident in Nigeria not only in securing redress for any wrong done, but also by listening patiently to their expression of anger which, without the intervention of the commission, could lead to mental or emotional problems. This could ultimately destroy the individual concerned as well as those he is taking care of. Also, importantly, in resolving complaints, the Commission attempts to establish some cordial relationship between the complaints and the authority complained against so that at the end of it all, there is genuine reconciliation. This helps build a sound and peaceful society (Roy, 2010).

However, the Public Complaints Commission under section 5 of the Public Complaint Commission Act are to Promote social justice for the individual citizen without which there can hardly be genuine peace and stability in the country due to the increased bureaucratic excesses that occur. It is therefore the responsibility of the Commission to help individuals who cannot help themselves to get redress for the injustice they suffered arising from the administrative action or inaction of government ministries or agencies and incorporated companies in the country. Assists the aggrieved individual citizen in no small measures, not only in securing redress for any wrong done but also by listening patiently to their expression of anger which could lead to mental or emotional problems which may ultimately destroy the individual concerned as well as those he is taking care of. This power is vital to the Commission in facilitating impartial investigation in order to arrive at a fair and equitable decision. Finally, investigation of complaints is provided at no cost to the citizens as well as to non-citizen resident in Nigeria and they are treated with confidentiality they deserve.

Theoretical framework

This study anchors on System theory. Systems analysis is a part of the behavioural movement in political science which had been growing in various American universities, starting with the University of Chicago – as a reaction to the traditional approach. It was in this search for theory-

building that scholars like David Easton, Ludwig Von Bertalanffy, a Biologist, Morton Kaplan, Karl Deutsch, Stanley Hoffmann, and Charles Meelelland to quote a few developed the system model (Varma, 1975). System theory was popularized in political science by David Easton (a Political Scientist). In recent times, the system theory has become as increasing useful framework for thinking about organizations and managerial functions.

The system theory is an analytical tool which enables theorist and researchers to study key elements or organizations in terms of their interaction with one another and with their external environment. Social systems are always open systems with inputs, outputs, and conversion process. In relation to an organization, inputs refer to people, materials, information and finance. Public Complaints Commission is an organization system within a larger system of its environment. The workers in the sub units constitute the internal environment of the organization.

This theory precipitates the notion that the Public Complains Commission is a system that has a number of political functions to perform to the people. Therefore, a complaint constitutes dysfunction to the system and therefore does not encourage system survival as enunciated by functional theorist. The major emphasis is on system survival, goal attainment, and system maintenance. There are inputs and feedback functions of a system and these functions cannot be performed by the system when it is over lad by complaints or administrative injustice (Nwizu, 1997). Selah-Hanna and Ume, (2008) stated that alternative dispute resolution processes are not merely dispute resolution techniques or mechanisms applied in an adhoc manner to various types of disputes but rather acquires a processual status based on the application of functional principles, each process is autonomous in its form and function yet capable of being explained and developed meaningfully within an independent system.

METHODOLOGY

This study utilized a descriptive survey research design because of the type of information needed for this investigation. By utilizing this design, the researcher was able to determine different perspective from practitioners relating to the research problem at hand. The population of this study consisted of mostly public servants from the Federal secretariat Abuja, a few business owners, students/lecturers who have attained the age of eighteen (18). Due to the large size of the entire proportion, it becomes reasonable for some proportion of the population to be selected to represent the overall population. Thus, two hundred (200) respondents were targeted for the study While Taro Yamane formula was used to determined 133 subjects from the target population. In selecting respondents for judgmental procedures was adopted. Questionnaire structures in Likert's five-point scale was used for data collection. Data were analyse using simple percentage.

ANALYSIS OF RESEARCH QUESTIONS

What are the efforts made by the commission to enforce its decisions and recommendations?

Table 4.1: The efforts made by the commission to enforce its decisions and recommendations.

S/N	Item	SA (5)	A (4)	SD (3)	D (2)	U (1)
1.	Continuous follow-up visits to offenders	63 (48)	40(32)	10(7)	15(12)	2(2)
2.	Increased public awareness on her constitutional powers	25(19)	16(12)	40(31)	45(35)	4(3)
3.	Ensuring proper collaboration between other agencies.	60(46)	30(23)	7(5)	20(15)	13(10)
4.	Engaging the duties of the police when necessary.	70(54)	30(23)	3(2)	27(21)	0

Keys: (SA) = Strongly Agree, (A) = Agree, (U) = Undecided, (D) = Disagree, (SD) = Strongly Disagree

Table 4.1 shows the efforts made by the commission to enforce its decisions and recommendations. It reveals that 80% of the respondents agreed that continuous follow-up visits to offenders are a means to enforce the commission's decisions and recommendations, while 19% disagreed with the statement, and 1% were indifferent. It also reveals that 31% of the respondents agreed that increased public awareness of the commission's constitutional powers creates respect from the public and enables them to enhance their decisions and recommendations, 66% of the respondents disagreed with this statement. It was also reported that 69% of them agreed that ensuring proper collaboration with government agencies will surely enforce their decisions, 21% disagreed with this, and 10% were indifferent to the statement. The table further shows that 77% of the respondents were of the view that engaging the help of the police, when necessary, will go a long way to enforce the decisions and recommendations of the commission, and 23% disagreed with this. It can be generally concluded that all the means employed by the commission enforces its decision and recommendations.

What role is Government playing in assisting the commission to discharge her duties?

Table 4.2: The role of Government in assisting the commission to discharge her duties

S/N	Item	SA (5)	A (4)	SD (3)	D (2)	U (1)
1.	Providing adequate funding	65(50)	56(43)	7(5)	2(1.5)	0
2.	Organizing training programs for officers	47 (36)	48(37)	15(12)	10(7)	10(7)
3.	Improving the conditions of service	50 (38)	37(28)	10(7)	25(19)	8(6)
4.	Employment of qualified professionals into the commission	45 (35)	63(48)	12(9)	12(9)	0
5.	Establishment of more offices in rural sites	35 (27)	70(54)	15(12)	3(2)	7(5)

Keys: (SA) = Strongly Agree, (A) = Agree, (U) = Undecided, (D) = Disagree, (SD) = Strongly Disagree

Table 4.2. shows the role of the Government in assisting the commission in discharging her duties. It reveals that 93% of the respondents agree that the provision of adequate funding by the government will assist the commission in discharging her duties properly, while 7 %

disagree with the statement. It also reveals that 73% of the respondents agree that engaging the officers in training programs will assist the commission in discharging her duties, 19% of the respondents disagreed with this statement, and 8% were indifferent to this. It was also reported that 66% of them agree that improving the conditions of service of officers will go a long way to assist them to perform better, 27% disagreed with this, and 7% were indifferent to the statement. The table further shows that 83% of the respondents were of the view that engaging the duties of well-qualified professionals as staff of the commission will assist the general output of service rendered by the commission 17% disagreed with this. The table also revealed that 81% of the respondents agreed that government should establish more offices in the rural areas of the nation, to assist the commission cover more ground, 14% disagreed and 5% were neutral on the statement. It can be generally concluded that all the factors considered in this study affect the role of government in assisting the commission to discharge her duties.

Conclusion and Recommendations

The Public Complaints Commission is given wide powers to inquire into complaints by members of the public concerning the administration of any public authority and companies or their officials and other matters thereto. The Commission is a veritable tool for promoting peace, justice and administrative transparency in any democratic system. The tradition and culture of the world have the Village Chief or Paramount ruler who listens to the complaints of the aggrieved in order to improve co-existence, harmony and understanding amongst family members, units and neighbourhoods. However, the study deduced that the commission has over the years put in extra effort in enforcing its decisions and recommendations by making sure that justice is served to the aggrieved party and that peace is restored to the different parties concerned. Nonetheless, the Commission can be said to have achieved tremendous success in the protection of the rights of so many individuals who have fallen victims of maladministration and other forms of administrative injustices. From the conclusion, the study recommends that:

The Commission should be allowed the power to summon complainants, it should also be given the powers to enforce its decisions in organizations which fails to conform to its stipulations. The Commission should embark upon aggressive publicity of its activities, using electronic and print media. Such publicity must touch the rural communities, the public servants, the labour unions, the civil society organization, to mention but a few. The Commission should endeavour to organize seminars or workshops for various Chief Executives of Public Organizations.

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