

ISSUES AND CHALLENGES OF PROMOTING EXCELLENCE IN ALTERNATIVE DISPUTE RESOLUTION IN AFRICA

Eric Chigozie Ibe⁷⁵, Esq and Uwakwe Abugu Esq⁷⁶

ABSTRACT

Access to justice is a situation where people in need of help find effective solutions from justice systems that are accessible, affordable, comprehensible to ordinary people and which dispense justice fairly, speedily and without discrimination, fear or favour. The inefficiency of the litigation process has led to the development of Alternative Dispute Resolution (ADR) mechanisms in Africa to enhance access to justice. The doctrinal research method was adopted and the data collected were both primary and secondary, consisting of both hard copies and online source materials. This paper examined the issues and challenges of promoting ADR in Africa and discovered that notwithstanding the track records of ADR in Africa, there exist huge challenges for ADR such as political interference, lack of funding, and lack of trained personnel among others. It was recommended that the African governments should endeavour that their citizens are enlightened on the benefits of ADR and more personnel should be trained to ensure efficiency of the processes. ADR centres should be supported financially to cater for remuneration of personnel and deficient infrastructure.

Keywords: Dispute Resolution, Alternative Dispute Resolution, Arbitration, Mediation, Conciliation, Negotiation

1.1 INTRODUCTION

Many African citizens have lost faith in the ability of their nations' courts to provide timely or just closure to their grievances. A 2009 survey in Liberia found that only 3 percent of criminal and civil disputes were taken to a formal court. Over 40 percent sought resolution through informal mechanisms. The remaining 55 percent went to no forum at all.⁷⁷ This includes cases where claimants felt the need to take justice into their own hands, often with violent consequences. In post conflict and fragile contexts, where societal tensions are already high and justice systems typically do not function, the need for prompt resolution of disputes is

⁷⁵ Secretary Nigerian Bar Association, Abuja Branch (Unity Bar)

⁷⁶ Nigerian Bar Association, Abuja Branch

⁷⁷ EE Uwazie, Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability (African Centre for Strategic Studies, 2011) 1.

particularly critical.⁷⁸ Without timely, accessible, affordable, and trusted mechanisms to resolve differences, localised disagreements or crimes can degenerate into broader conflict. This contributes to cultures of violence and vigilante justice. This timely mechanism is known as Alternative Dispute Resolution (ADR).

ADR consists of a range of processes used as an alternative means of resolving disputes between two or more parties rather than using the conventional means of going to court. ADR is often used to describe a wide variety of dispute resolutions that are sort of or alternative to full-scale court processes. The term can refer to everything from facilitated settlement negotiations in which disputants are encouraged to negotiate directly with each other prior to some other legal process, to arbitration systems or mini trials that look very much like a courtroom process.⁷⁹ ADR is not meant to replace the formal court system or diminish the need to improve the current system but only as an alternative to full-scale court processes.⁸⁰ It is usually not recommended for use in instances where cooperation between the parties to the dispute is lacking, where a court ruling on a case may result in the law being changed, where control offered by the justice system is required or where punishment by jail is required to show disfavour for criminal actions.⁸¹

Historically, traditional indigenous African societies were organised on the basis of clan or family relationships and leadership. Dispute settlement mechanisms were mostly amicable. Communities were traditionally led by an elder, who was regularly consulted and respected for his decisions when it came to sorting out disputes. The indigenous African justice system was indeed a tool for reconciliation, its goal being the resolution of conflict through peace and social harmony.⁸² Thus, the concept of dispute resolution is not new to African nations. Over the last couple decades, ADR has been implemented across Africa, notably emerging democratic countries to enhance access to justice.

⁷⁸ Ibid.

⁷⁹ Centre for Democracy and Governance, *Alternative Dispute Resolution Practitioners' Guide 8* (Technical Publication Series, 1998).

⁸⁰ E Wychreschuk & B Boland, *Making It Safe: Women, Restorative Justice and Alternative Dispute Resolution 8* (Department of Justice, Government of Newfoundland and Labrador, 2000).

⁸¹ KA Atua, 'Alternative Dispute Resolution and Its Implications for Women's Access to Justice in Africa – Case Study of Ghana', *Frontiers of Legal Research* [2013] (1) (1) 37.

⁸² A Dieng, *ADR in Sub-Saharan African Countries* (Arbitration, Mediation and Conciliation Centre of Dakar, 2011).

1.2 PRINCIPLES AND FORMS OF ADR

A. PRINCIPLES OF ADR

1.2.1 Equity

ADR programmes are conducted on the principle of equity rather than the rule of law.⁸³ Neutral third parties acting as mediators are employed in ADR proceedings or the parties involved are allowed to choose how proceedings should go based on how comfortable they feel. This is quite different from the mainstream court where there are standardised laid down rules and hence participants have no say in proceedings. ADR mechanisms are efficient due to its principle of equity over consistent norms of justice. Nevertheless, should the parties based on the outcome of the proceedings remain unconvinced; they are allowed to refer the matter to the judicial courts. However, due to the win-win goal of mediation, where parties deliberate until each has felt like he has had his day in court, seldom do they go back to the formal court unless in extreme cases where one party feels cheated. In societies where large parts of the population do not receive any real measure of justice in West Africa, ADR can be very useful in providing timely and efficient justice under the principle of equity, which speeds up the process of conflict resolution.⁸⁴

1.2.2 Informality

Informality remains a distinctive feature of ADR. Most ADR procedures are less formal than the formal judicial court processes.⁸⁵ Normally, the rules of ADR are flexible without formal pleadings. In addition, there is hardly any extensive written documentation or evidence. Informality is important for ADR proceedings because its main aim is to make access to justice more flexible to the ordinary person who may be intimidated by the formal law courts or do not have the necessary financial resources to seek justice. Furthermore, it aids in reducing the delays associated with the bureaucracy in the formal judicial setting.⁸⁶

1.2.3 Direct Participation

⁸³ B Scott, C Cervenak, and D Fairman, *Alternative Dispute Resolution Practitioners Guide* (Center for Democracy and Government, 1998) 21.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid.

ADR also seeks to give room for reconciliation and healing of relationships through direct participation.⁸⁷ Reconciliation through direct participation is particularly important for the African society where communal spirit is placed above individualistic style (western style) of living. As disputants negotiate through direct communication with each other, it gives room for reconciliation and healing.⁸⁸ This ensures confidentiality, trust, sincerity, understanding and a better appreciation of the issue at hand. Disputants are able to hear themselves out and detect where each party has erred and how the dispute can be resolved.

In addition, since the process is held in private with no formal documents needed, it allows creative methods to be used in resolving the conflict with various options available as solutions. There is also no imposed formal authority to impose decisions hence this gives room for fair resolution of the conflict. This remains distinctive from mainstream proceedings where the lawyer with the best case and evidence wins without giving room for disputants to analyse the issues at hand for themselves.

B. FORMS OF ADR

Forms of ADR

There are several methods of ADR in African countries. The most prevalent are negotiation, conciliation, mediation and arbitration. Below is an in-depth description of the various types of ADR available.

1.2.4 Arbitration

Arbitration is one of the various methods of dispute resolution but undoubtedly the most popular. Arbitration views the dispute as a legal analysis and seeks a solution based on entitlement and rights. It often “may ignore the interests and needs of an individual party and critically in international disputes, not embrace the cultural influences on the problem at hand. Like litigation, it is an adjudicative process whereby a single or panel of arbitrators impose(s) a settlement on the parties. Unlike litigation, it is usually subject to confidentiality agreements

⁸⁷ JA Edzii, *Is Alternative Dispute Resolution a Solution to Interpersonal and Group Conflicts in West Africa? The Case of Ghana* (Being a Masters’ Dissertation submitted to the Faculty of Law, University of Ghana, Legon, 2018) 46. ⁸⁸ Ibid.

between the arbitrator, the parties and the seat of the arbitration.⁸⁹ Arbitration is a voluntary method of ADR, which is applied to both domestic and international contracts and is founded on the present or future agreement of the parties to submit any dispute between them to arbitration.

1.2.5 Conciliation

Conciliation is the process by which one or more independent person(s) selected by the parties to an agreement generally by mutual consent, either at the time of making the agreement or subsequently when a dispute has arisen between them, to bring about a settlement of their dispute through consensus between the parties by employing various persuasive and other similar techniques.⁹⁰ It is a process of confidence and faith. Sometimes, and in some systems it is also called mediation. Conciliation is an effective means of alternative dispute resolution and can be usefully deployed for both international as well as domestic disputes, except that in the conciliation of an international dispute certain facts assume greater importance than they would in a domestic conciliation.⁹¹

1.2.6 Mediation

Mediation is the process whereby a neutral third party helps conflicting parties arrive at decisions mutually beneficial to all parties' interest without imposing any decision on them.⁹² Mediation is a voluntary process and parties have the choice to choose their own mediator acting in the capacity of an impartial third party guiding involved parties to arrive at amicable terms of settlements. The mediator's ultimate goal is to ensure mutual benefits for all parties by adopting an interest based approach of resolving conflicts.⁹³ This is attained by encouraging parties to concentrate on their needs and what they seek to gain at the end of the mediation process. Disputants on the other hand have the power to partake in the process by choosing the time, date, venue and agenda for the meeting with the help of the mediator. After the parties and the mediator have agreed on the rules necessary for mediation to take place, the mediator

⁸⁹ AP Phillips, ADR in Africa (Mediate.com, 2012) 4 <<https://www.mediate.com/articles/PhillipsPbl20120625.cfm>> Accessed on 9th May, 2021.

⁹⁰ V Argawal, Alternative Dispute Resolution Mechanisms (United Nations Institute for Training and Research, 2001) 9.

⁹¹ Ibid.

⁹² JA Edzii, Is Alternative Dispute Resolution a Solution to Interpersonal and Group Conflicts in West Africa? The Case of Ghana (Being a Masters' Dissertation submitted to the Faculty of Law, University of Ghana, Legon, 2018) 61. ⁹³ Ibid.

commences with the mediation process. Mediation therefore takes a more formal and organised process in comparison with the negotiation process.

1.2.7 Negotiation

Negotiation is a voluntary and informal process in which the parties seek out the best options for each other. The result is usually a mutually acceptable agreement. In this private process there is usually no limit to the argument, evidence, and interests that may be brought to the bargaining table.⁹⁴ It is the most available process among the ADR processes that anyone can utilise. It can be used in resolving already existing disputes or for laying the foundation for future relationships between parties. It can take place at the individual, corporate, national and international level.⁹⁵

TRADITIONAL JUSTICE SYSTEM AND ADR IN AFRICA

1.3 Traditional Justice System in Africa

Over many centuries, citizens in many African countries have relied, and continue to do so, on traditional justice systems to resolve disputes. In pre-colonial times, many African communities organised themselves according to kingdoms and clans, each with its own dispute resolution systems to resolve intra- and inter-community disputes. For centuries, traditional justice systems utilised forms of negotiation, arbitration and mediation to resolve disputes.⁹⁶ These systems were rooted in the culture and history of the societies and built around the concepts of reconciliation, accountability, truth-telling and reparation.

All types of disputes were resolved using traditional justice, including theft, family disputes, commercial disputes, water and land rights disputes and other criminal matters, such as rape and murder.⁹⁷ In many communities, transgressions were not regarded as individual failings, but rather as a collective failure by the family, clan or community, to prevent individuals from

⁹⁴ AP Phillips, ADR in Africa (Mediate.com, 2012) 3 <<https://www.mediate.com/articles/PhillipsPbl20120625.cfm>> Accessed on 9th May, 2021.

⁹⁵ JA Edzii, Is Alternative Dispute Resolution a Solution to Interpersonal and Group Conflicts in West Africa? The Case of Ghana (Being a Masters' Dissertation submitted to the Faculty of Law, University of Ghana, Legon, 2018) 59.

⁹⁶ M Mutisi, The Abunzi Mediation in Rwanda: Opportunities for Engaging with Traditional Institutions of Conflict Resolution (Durban Accord, 2011).

⁹⁷ B Radar & M Karimi, Indigenous Democracy; Traditional Conflict Resolution Mechanisms; Pokot, Turkana, Samburu and Marakwet (Nakuru: ITDG-EA, 2004).

committing the transgression.⁹⁸ Therefore, transgressions and disputes were collectively owned and prioritised for urgent resolution within the community.

Central to the process of dispute resolution were food and spiritual rituals. The dispute resolution process started and/or concluded with an offering of an animal to the ancestors. Certain rituals were performed after the process, such as dancing, eating and drinking traditional beer. Even the compensation was often an animal offering, food or drink. These practices are still in place in many countries and more than half of the population in sub-Saharan Africa still rely on them to provide access to justice. In rural areas, only 36% of the population would consider referring the matters to court.⁹⁹ Their first point of call when they have disputes is the traditional justice mechanisms or religious leaders.

1.4 Rationale for the Use of ADR

Africa's rationale for introducing ADR was no different to other parts of the world. ADR was seen as a possible solution to address lack of access to justice caused by case backlog, lengthy processes, cost of litigation and lack of human and financial resources. It was also seen as a way of simplifying court processes. Other challenges identified by the Institute for Security Studies (ISS), which hinder access to justice, included lack of court facilities in rural areas, where 62% of the people in Sub Saharan Africa still live,¹⁰⁰ low literacy levels', poverty, prohibitive costs of legal representation without sufficient legal aid, prohibitive cost of travel to the courts and, most relevant to this paper, the use of foreign, complex processes and languages, unfamiliar to many Africans.¹⁰¹ The court processes seldom utilise restorative principles used in traditional justice systems, which people are accustomed to.¹⁰²

The ISS' claim that access to justice is hindered by the use of foreign processes and languages in courts, can better be understood by looking at how the formal justice system came about in

⁹⁸ Ibid.

⁹⁹ J Loschky, Majority in Sub-Saharan Africa Wouldn't Use Formal Courts (Gallop News, 2016) <www.gallup.com/poll/190310/majority-subsaharan-africa-wouldn-formal-courts.aspx>30.> Accessed on 11th May, 2021.

¹⁰⁰ World Bank & International Monetary Fund, Global Monitoring Report 2013: Rural-Urban Dynamics and the Millennium Development Goals (Open Knowledge Repository, 2013) <<https://openknowledge.worldbank.org/handle/10986/13330>> Accessed on 11th May, 2021.

¹⁰¹ R Bowd, Access to Justice in Africa: Comparison between Sierra Leone, Tanzania and Zambia (Policy Brief of the Institute for Security Studies, 2009).

¹⁰² M Spinks, Access to Justice in Sub-Saharan Africa: The Role of Tradition and Informal Justice Systems (Penal Reform International, 2001).

Africa. Many African countries inherited their legal systems during the time of decolonisation.¹⁰³ These inherited legal systems, comprising common law, civil law, religious law or hybrid systems, were far removed from the cultural systems which were in place in many African countries prior to colonialism. These legal systems were built on irrational, violent and malevolent practices, through which the colonial master achieved public control and deprivation of the colonised people.¹⁰⁴ They were established by autocratic, racist and chauvinistic colonial governments, whose focus was de-indigenization, divide-and-rule and to ensure that, by using foreign languages, principles and procedures, Africans had no way of dealing with the injustices of the state.¹⁰⁵ Colonial powers regarded African tradition and systems as primitive and only appropriate for the natives.¹⁰⁶ In fact, when disputes arose, race was the predetermining factor for which legal system Africans were entitled to.¹⁰⁷ When independence was proclaimed, these systems were passed down with their foreign languages and processes, regardless of whether they were French, British or Portuguese and without consideration of local conditions and cultural context.

1.5 Merging Justice System

The promotion of ADR has grown in many African countries. These countries have made great strides to incorporate the use of ADR in various forms in the formal justice system for the purposes of resolving disputes and creating better access to justice. Court connected mediation and the use of arbitration are becoming common occurrences in many African justice systems. Some African countries have taken things a step further by introducing ADR into the upper court of the formal justice system and merging traditional justice systems into the formal justice system so that they are used at the lower court level to become the first court of instance in resolving disputes.¹⁰⁸

¹⁰³ A Sium, *Revisiting the Black Man's Burden: Eritrea and the Curse of the Nation-State* (Being a Masters' Thesis submitted to the Department of Sociology and Equity Studies in Education, Ontario Institute for Studies in Education, University of Toronto, 2010).

¹⁰⁴ Ibid.

¹⁰⁵ B Davidson, *The Black Man's Burden: Africa and the Curse of the Nation State* (Three Rivers Press, 1992).

¹⁰⁶ SF Joireman, 'Inherited Legal Systems and Effective Rule of Law: Africa and the Colonial Legacy', *Journal of Modern African Studies* [2001] (39) (4) 571-596.

¹⁰⁷ Ibid.

¹⁰⁸ N Ntuli, 'Africa: Alternative Dispute Resolution in a Comparative Perspective', *Conflict Studies Quarterly* [2018] (22) 36-61.

The United Nations encouraged this approach in 2004 when Kofi Anan acknowledged that due regard should be given to traditional justice systems in the settlement of disputes to help them continue their vital role of resolving disputes, but to also help traditional justice conform with international standards.¹⁰⁹ Incorporating traditional justice into the formal justice system has proven to be a successful way to create better access to justice and to reduce case backlog in some countries because it is home grown, locally owned and culturally embedded.

1.6 Prospects of ADR in Africa

The notion of ADR fits comfortably within traditional concepts of African justice, particularly its core value of reconciliation.¹¹⁰ The growth of ADR in its present form on the continent is certainly an overall positive step for the promotion of access to justice in the formal justice system. Ghana, South Africa and Uganda are among the countries in Africa who have recorded remarkable success in using ADR in the formal systems.¹¹¹ The track records of ADR in Africa can be summarised as follows:

- (a) The introduction of ADR within the courts has aided in achieving its primary mandate of reducing the backlog of cases, reducing cost, promoting the ease of doing business and avoiding delays associated with the formal courts.
- (b) It has promoted access to Justice for all, especially the less privileged in society.
- (c) It has strengthened the trust in the judicial system as capable of delivering timely and efficient justice, which has helped in reducing crime rates in some countries.¹¹²
- (d) It supports and reiterates the role traditional leaders play in resolving conflicts at both the national and community level. E.g. the Customary Arbitration Act of Ghana. Traditional rulers have played vital roles mitigating cross-cultural conflicts.¹¹³

¹⁰⁹ Ibid.

¹¹⁰ EE Uwazie, *Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability* (African Centre for Strategic Studies, 2011) 3.

¹¹¹ N Ntuli, 'Africa: Alternative Dispute Resolution in a Comparative Perspective', *Conflict Studies Quarterly* [2018] (22) 56.

¹¹² Ibid.

¹¹³ JA Edzii, *Is Alternative Dispute Resolution a Solution to Interpersonal and Group Conflicts in West Africa? The Case of Ghana* (Being a Masters' Dissertation submitted to the Faculty of Law, University of Ghana, Legon, 2018) 85.

- (e) ADR has helped boost economic activities within the continent by providing workers, through training, with the requisite skills needed to resolve conflicts both at home and the work places.
- (f) Equity as an ADR principle has also contributed in preventing unforeseen financial or material difficulties. People do not only experience damages because of lengthy years spent in courts but also experience sentimental losses.¹¹⁴

1.7 Challenges of ADR in Africa

Notwithstanding the track records of ADR in Africa, it has challenges impeding its promotion in the continent. Some of the notable challenges are discussed below.

1.7.1 Political Interference

Political interference remained the top most challenge hindering the implementation of ADR especially pertaining to resolution of group conflict. The objective of ADR is to restore faith in the justice delivery system by encouraging disputants to be a part of the settlement process. For this reason, disputants are given autonomy in selecting a neutral third party whom they trust to help them resolve their conflicts. However, politicians prevent the realisation of this objective by constantly meddling in the resolution of group conflicts.¹¹⁵

1.7.2 Indifference of Government

Despite the high number of ADR professionals within the continent, it is unfortunate that their skills are yet to come to bear on resolving conflicts. Governments resort to the expertise of security services in managing conflicts rather than relying on ADR practitioners.¹¹⁶ In such events, security often uses curfews to calm down tensions within such communities. The danger is that such conflicts never die away and will keep recurring until trained professionals are employed to resolve these cases using their technical skills.

1.7.3 Poor Funding

Lack of funds, infrastructural deficiencies and poor logistics are equally challenging in the institutionalisation of ADR. ADR Centres continue to operate in dilapidated structures. This

¹¹⁴ Ibid at 86.

¹¹⁵ Ibid at 88.

¹¹⁶ Ibid.

hinders the centre's effectiveness in handling disputes and in worse cases, threatens the existence of the centre as it could shut down at any point in time.

1.7.4. Resistance by Legal Professionals to Participate in ADR Processes

This is largely driven by lack of knowledge and understanding of ADR processes among legal professionals. There is also a perception that because ADR reduces the time for resolving disputes, it results in loss of revenue for legal practitioners. Furthermore, there is a concern that using ADR will erode the creation of jurisprudence. In every process of change, people first resist the change before embracing it.¹¹⁷

Even where lawyers have embraced ADR, their litigious nature, due to legal training, still results in an adversarial approach to ADR which is counter-productive. Remuneration is also a problem faced by most practitioners because the majority of citizens who benefit from the ADR services are mostly unable to foot the bill. Majority of the mediators are therefore not motivated to give off their best. Some judges may also resist ADR for fear of losing “control” over non-litigation processes of resolution or out-of-court settlements.

1.7.5. Lack of Knowledge

In Lesotho, and some other countries that have introduced ADR into the court system through court-annexed mediation, the lack of knowledge and understanding of ADR by court users, has resulted in reluctance to undergo mediation. Because the court administrative staff also had limited knowledge and understanding of ADR, they were ill-equipped to provide proper guidance to court users on ADR processes, thereby exacerbating the problem.¹¹⁸

1.7.6. Lack of Training of ADR Professionals

ADR requires specific skills and cannot be conducted by persons simply because they have knowledge of the law. Lack of training can have detrimental effects on the public's attitude towards ADR. The way the ADR practitioners conduct the process, can create confidence or mistrust in the process. When this happens, it is near impossible to get the parties to have a positive attitude towards ADR.

¹¹⁷ N Ntuli, 'Africa: Alternative Dispute Resolution in a Comparative Perspective', *Conflict Studies Quarterly* [2018] (22) 56.

¹¹⁸ Ibid.

1.7.7. ADR is Only Used in Formal Justice

ADR is mostly introduced at the upper court level, from the High Court upwards. Few attempts have been made to see how ADR can be used to enhance traditional justice practices. Nor have traditional justice practices been used to enhance ADR initiatives introduced in the formal justice system. This exclusion of traditional justice, further enforces perceptions that the system is biased and systematically favours the more powerful, elite parties and perpetuates the dominant Western culture.¹¹⁹

1.8. Recommendations

In view of the identified challenges to the promotion of ADR in Africa, the following recommendations are proffered to serve as a panacea:

1. While most African court rules or policies permit the judge to encourage parties to settle out of court, enacting legislation would elevate the status of ADR before a sceptical disputant, build public confidence, and further increase ADR utilisation.
2. To develop and broaden adoption of ADR mechanisms, their benefits and contributions to legal professionals must be clear. For lawyers, strategic use or inclusion of ADR should offer an additional tool to enhance the efficiency of their practice, potentially increase revenue, and achieve greater satisfaction for both the lawyer and client.
3. To maximise the efficiencies and complementarities of ADR with the official judicial process, a systematic monitoring process should be established. This includes measuring key qualitative and quantitative data that would then lead to adjustments in the scope and focus of ADR efforts.
4. African governments must make a deliberate effort to market and sensitise the general public on the advantages of ADR in delivering effective and affordable and timely delivery of justice.
5. African governments must actively engage in the promotion of ADR by funding the respective centres and ensuring that more people are trained. Proper infrastructural development must be pursued to promote access to justice especially in the rural and deprived areas where access to justice is limited.

¹¹⁹ N Ntuli, 'Africa: Alternative Dispute Resolution in a Comparative Perspective', *Conflict Studies Quarterly* [2018] (22) 57.

6. Politicians must ensure that trained ADR practitioners have their skills brought to bear when matters arise especially relating to communal conflicts. Conflicts of this nature must be properly managed.
7. Lawyers and other law enforcement agencies are advised to desist from attempting to resolve conflicts using ADR mechanisms when they are not properly trained. ADR requires a special skill and only trained professionals can fully utilise its power to yield the right results.

1.9. Conclusion

From the discussions made so far, it can be safely concluded that ADR is a solution to interpersonal and group conflicts in Africa using the various methods of resolving conflicts such as arbitration, mediation, conciliation and negotiation. It has helped to reduce the caseloads in the courts and promoted access to justice for all by delivering cheaper, faster and timely justice. Its principles of informality, confidentiality and equity continue to make it an attractive means of seeking justice.

Traditional justice mechanisms need to be incorporated into the ADR practices that are introduced in Africa. This will create familiarity and, in turn, better access to justice. This will also give recognition to existing systems of dispute resolution that are aligned to the social fabric of many African communities. However, modification of the systems is required to stem out discriminatory and oppressive cultural practices that are not in line with international human rights doctrines, especially relating to women. The challenges confronting ADR institutions such as lack of funds, opposition from legal professionals and poor remuneration for practitioners amongst others, if addressed would promote ADR in reaching its full potential as a conflict resolution tool in Africa.