

Alternative Dispute Resolution (ADR) as a Mechanism for Managing Industrial Conflicts in Nigeria

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Abstract

Industrial conflict remains a persistent and defining feature of labour and employment relations in Nigeria, with significant implications for economic productivity, social stability, and democratic governance. Recurrent strikes, lockouts, work stoppages, and other manifestations of industrial unrest continue to expose the limitations of adversarial litigation as the dominant mechanism for resolving employment-related disputes. This article critically examines Alternative Dispute Resolution (ADR) as a contemporary, pragmatic, and sustainable framework for managing industrial conflicts in Nigeria. It analyses the constitutional, statutory, and institutional foundations of ADR, with particular emphasis on the jurisdiction and practice of the National Industrial Court of Nigeria and the reforms introduced by the Arbitration and Mediation Act 2023. The article argues that ADR processes such as negotiation, mediation, conciliation, and arbitration offer flexible, cost-effective, and relationship-preserving mechanisms that are better suited to the realities of modern industrial relations. It concludes that the effective institutionalisation and utilisation of ADR are indispensable to the attainment of industrial peace, sustainable economic development, and improved access to justice in Nigeria.

Keywords: *Mechanism, Alternative Dispute Resolution (ADR), Industrial Conflicts, Nigeria*

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Background to the Study

The nature and quality of industrial relations within a country constitute a critical indicator of its economic performance, investment attractiveness, and level of social cohesion. Industrial harmony promotes productivity, workforce stability, and investor confidence, while persistent industrial conflict undermines economic growth, weakens institutions, and erodes public trust. For this reason, the effective management of industrial conflict is not merely a private matter between employers and employees, but a question of national importance that engages public policy, governance, and the rule of law.

In Nigeria, industrial conflict has remained a recurring feature of labour relations from the colonial period to the present day. Disputes frequently arise over wages, conditions of service, job security, trade union recognition, pension entitlements, and the implementation of collective agreements. Organised labour actions by trade unions, academic staff unions, and healthcare professionals have repeatedly resulted in prolonged strikes that disrupt education, healthcare delivery, transportation, and other essential services. These disputes impose heavy economic and social costs on citizens, businesses, and the state, while also exposing structural weaknesses in dispute resolution mechanisms.

The employment relationship is inherently conflictual because it involves competing interests between capital and labour. Employers seek efficiency, profitability, and managerial control, while employees pursue fair remuneration, security of tenure, and decent working conditions. Law intervenes in this relationship by defining rights and obligations and by providing institutional mechanisms for the resolution of disputes. Traditionally, litigation has been the dominant mode of dispute resolution in Nigeria. However, the adversarial nature, rigidity, cost, and delay associated with litigation often render it unsuitable for industrial disputes, particularly where parties are engaged in ongoing relationships. This reality has heightened interest in Alternative Dispute Resolution as a more appropriate and responsive mechanism for managing industrial conflict.

Concept and Meaning of Alternative Dispute Resolution

Alternative Dispute Resolution refers to a range of processes through which disputes are resolved outside the conventional courtroom setting, or alongside judicial proceedings, with the consent and participation of the parties. ADR encompasses negotiation, mediation, conciliation, arbitration, and hybrid processes. Its defining characteristics include procedural flexibility, party autonomy, confidentiality, informality, and an emphasis on consensual outcomes. Unlike litigation, which is governed by rigid procedural rules and judicial control, ADR allows parties to design processes that reflect their specific needs, interests, and commercial realities. This flexibility is particularly valuable in industrial disputes, which often involve technical issues, emotional tensions, and continuing relationships. ADR focuses not only on legal rights, but also on underlying interests, thereby facilitating more durable and acceptable outcomes.

Constitutional and Statutory Foundations of ADR in Nigeria

The constitutional basis for ADR in Nigeria is found in section 19(d) of the Constitution of the Federal Republic of Nigeria 1999, which encourages the settlement of disputes by negotiation, mediation, conciliation, arbitration, and adjudication. Although this provision forms part of the Fundamental Objectives and Directive Principles of State Policy, it reflects a clear commitment to non adversarial dispute resolution. At the statutory level, the Arbitration and Mediation Act 2023 represents a major reform of Nigeria's ADR regime. The Act repeals the Arbitration and Conciliation Act and modernises the legal framework for arbitration and mediation in line with international best practices. It incorporates principles from the UNCITRAL Model Law and provides for the recognition and enforcement of mediated settlement agreements. These reforms enhance legal certainty and promote confidence in ADR outcomes, including in employment and industrial relations context.

Types of ADR Processes Relevant to Industrial Disputes

Negotiation is the most fundamental form of ADR and the cornerstone of collective bargaining in industrial relations. It involves direct engagement between parties with a view to reaching a mutually acceptable agreement. Effective negotiation depends on good faith, transparency, and a willingness to compromise. Mediation involves the assistance of a neutral third party who facilitates communication, identifies issues, and helps parties explore settlement options. The mediator does not impose a decision, but guides parties towards consensus. Mediation is particularly effective in disputes characterised by communication breakdowns and mistrust.

Conciliation is similar to mediation but involves a more active role for the neutral third party, who may propose settlement terms and encourage acceptance. Under the Trade Disputes Act, conciliation is a mandatory step in the resolution of trade disputes, highlighting its institutional importance. Arbitration entails the submission of a dispute to one or more arbitrators whose decision is binding on the parties. In industrial relations, arbitration offers procedural flexibility combined with finality and enforceability. The Industrial Arbitration Panel plays a central role in this process in Nigeria.

Role of ADR in Promoting Industrial Peace and Development

Effective utilisation of ADR contributes significantly to industrial peace and economic development. By resolving disputes promptly and amicably, ADR minimises work disruptions and enhances productivity. It fosters a culture of dialogue and mutual respect, which is essential for stable labour relations. For a developing economy such as Nigeria, the strategic deployment of ADR is critical to attracting investment and sustaining growth.

Nature and Limitations of Litigation in Industrial Disputes

Litigation remains the most formal and visible mechanism for resolving industrial disputes in Nigeria. Judicial adjudication offers certain advantages, including authoritative interpretation of statutes, binding and enforceable judgments, and the development of precedent. In cases involving constitutional questions, statutory violations, or allegations of fundamental rights breaches, recourse to the courts may be necessary and appropriate.

Despite these advantages, litigation presents serious limitations when applied to industrial relations. Court proceedings are often time consuming, expensive, and procedurally complex. Delays in resolving industrial disputes can prolong strikes and lockouts, exacerbate economic losses, and deepen hostility between parties. The adversarial structure of litigation encourages parties to adopt rigid positions, thereby reducing the prospects for compromise and mutual understanding.

More fundamentally, litigation produces win or lose outcomes that may resolve legal issues without addressing underlying relational and structural problems. In industrial relations, where parties must continue to interact after a dispute is resolved, such outcomes can damage trust, morale, and cooperation. These shortcomings underscore the need for alternative mechanisms that are better aligned with the realities of the workplace.

Legal and Institutional Framework for Managing Industrial Conflicts in Nigeria

Nigeria's labour and employment law framework recognises the inevitability of industrial conflict and provides statutory mechanisms for its prevention and resolution. The principal legislative instruments governing industrial relations include the Trade Unions Act, the Labour Act, the Trade Disputes Act, the Employees' Compensation Act 2010, and the National Minimum Wage Act 2019. These statutes regulate trade union organisation, conditions of employment, wage determination, occupational safety, and compensation for workplace injuries, while also prescribing procedures for the settlement of trade disputes.

The Trade Disputes Act occupies a central position in the statutory framework for industrial dispute resolution. It establishes a graduated process that prioritises negotiation, mediation, and conciliation before resort to adjudication. The Act empowers the Minister of Labour to appoint conciliators to assist parties in resolving disputes amicably. Where conciliation fails, disputes may be referred to the Industrial Arbitration Panel, whose awards may subsequently be confirmed, varied, or set aside by the National Industrial Court of Nigeria. This statutory emphasis on consensual processes reflects a long-standing policy preference for dialogue and compromise in industrial relations.

A significant institutional development in Nigeria's labour jurisprudence is the elevation of the National Industrial Court of Nigeria to the status of a superior court of record under sections 254A to 254F of the Constitution of the Federal Republic of Nigeria 1999, as amended. The Court now exercises exclusive jurisdiction over labour, employment, trade union, and industrial relations matters. Its jurisdiction extends to issues of unfair labour practices, workplace discrimination, and the application of international labour standards. Importantly, the Constitution and the Court's enabling statutes empower the NICN to promote amicable settlement of disputes, including through ADR mechanisms.

The Rules of the National Industrial Court further entrench this approach by encouraging pre trial conferences, settlement discussions, and referrals to mediation. The Court is therefore not merely an adjudicatory institution, but an active facilitator of consensual dispute resolution within the industrial relations system.

Advantages and Challenges of ADR in Industrial Disputes

ADR offers several advantages in the management of industrial conflicts. It is generally faster and less expensive than litigation, reducing the economic costs of prolonged disputes. Confidentiality protects sensitive employment information, while informality encourages candid dialogue. Most importantly, ADR promotes the preservation of relationships by focusing on cooperation and problem solving rather than blame. However, ADR is not without challenges. Power imbalances between employers and employees may affect the fairness of outcomes, particularly where trade unions are weak. Non binding processes may fail if parties act in bad faith. In such cases, judicial oversight remains essential to ensure equity and compliance with the law.

Conclusion

ADR has become a vital and increasingly indispensable mechanism for managing industrial conflicts in Nigeria. The persistent incidence of strikes, lockouts, and industrial unrest shows that adversarial litigation, while sometimes necessary, is inadequate as the primary tool for resolving labour disputes. The collective nature of industrial conflicts, their emotional intensity, and the need for ongoing relationships demand mechanisms that promote dialogue, flexibility, and mutual accommodation.

Nigeria's constitutional and statutory framework strongly supports the expansion of ADR. The Trade Disputes Act places conciliation and arbitration at the centre of dispute resolution, while the constitutional elevation of the National Industrial Court reinforces the shift toward amicable settlement. The Arbitration and Mediation Act 2023 further modernises this system and strengthens the enforceability of consensual outcomes.

For employers, employees, unions, and the state, ADR offers faster and more harmonious dispute resolution, reduces economic losses, and builds trust in workplace relations. It also eases the burden on courts and contributes to national stability and development. However, effective ADR requires institutional capacity, skilled neutrals, and good-faith participation. Power imbalances must be managed to ensure fairness, and courts remain essential where ADR fails or is abused. The Supreme Court's position on the enforceability of ADR agreements further reinforces this safeguard.

In conclusion, ADR should be recognised as a central pillar of Nigeria's industrial relations system. Strengthening ADR processes and promoting a culture of dialogue will help achieve sustainable industrial peace, improved access to justice, and long-term economic development.

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