

PROMOTING AMICABLE WAY OF RESOLVING MARITAL DISPUTES: A CASE FOR ALTERNATIVE DISPUTE RESOLUTION

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Abstract

Marital dispute is a universal problem which has affected a lot of couples even those who have healthy homes. Marriage is gradually moving towards the trend of only economic contract benefit at the expense of sanctity of marriage which is no longer preserved. Divorce cases are increasing every day in court because the idea of Alternative Dispute Resolution (ADR) has not fully gained its ground in marital disputes even though it is cheaper than litigation in preserving marriage. The adoption of ADR in resolution of marital disputes is prevalent in other countries especially in India where ADR processes are promoted in their Statutes to reduce the rate of divorce. Proper applicability of ADR in resolution of marital disputes will determine its effect on the affected

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couples, the children and the society at large. The research methodology to be used is secondary such as published books, journals, magazines and internet materials. This paper makes a case for ADR as the appropriate medium of resolving marital disputes. This paper concludes that ADR process in marital dispute is not binding except the parties intend to make it binding by drawing terms of settlement and signing it together with an ADR judge. In addition, ADR however has more benefits than litigation in resolution of marital dispute. It is also submitted in this paper that ADR is not suitable for all marital disputes especially where the law adequately provides for the method applicable to such situations such as divorce and child custody.

Keywords: Amicable settlement, Marital Dispute, Causes of Marital dispute, Applicability of ADR in marital dispute.

Introduction

Differences in agenda often lead to disputes. A group means a number more than one, marriage is a group affair because it involves of more than one person and therefore, associated with conflict. Marital conflict/dispute is as old as the establishment of marriage itself and it has become an integral part of human life to engage in conflict.¹Couples, who never learn how to effectively

¹ Mary Ogechi Esere, Jamila Yusuf and Joshua Adebisi Omotosho, '50 Influence of Spousal Communication on Marital Stability: Implication for Conducive Home Environment' [2011] (4) (1& 2) *Edo Journal of Counselling*, 51. See also, Danijel Berković, 'Marriage and Marital Disputes in the Old Testament', [2018] (Vol. XII) (No. 2) *Evangelical Journal of Theology*, 185.

manage their conflicts, begin a series of stages in their relationship that can ultimately destroy it. Therefore, it is not only important to provide for mechanisms to resolve marital conflict but also to promote peaceful co-existence in the society.

In the past, the elders in the joint family usually act as mediators in resolving almost all family disputes within the joint family but the situation is not rampant like before under this present nuclear family set up due to civilization.² It is not a gainsaying, that, the family is the smallest unit of every society³ and is the foundation of the behavioural pattern of every individual in the society; this shows the level of importance attached to matrimonial issues at every level especially in conflict resolution. The resolution of marital dispute can be by a way of litigation which is adversarial in nature or by way of consensual and amicable settlement usually referred to as alternative dispute resolution (hereinafter referred to as ADR). This paper discusses the relevance of alternative dispute resolution in settlement of marital disputes by drawing from secondary sources of information.

In addition, this paper will discuss the term ADR in marital dispute, causes of marital dispute, importance of ADR in marital dispute resolution, the appropriate ADR mechanism to resolve marital

² T. Cao, 'The Impacts of Modernity on Family Structure and Function: A Study among Beijing, Hong Kong and Yunnan Families' [2012], (Doctoral Dissertation, Lingnan University, Hong Kong), 28-29. <http://dx.doi.org/10.14793/soc_etd.29> accessed 26 June, 2020. See also, Jude Nsom Waindim, 'Traditional Methods of Conflict Resolution; The Kom Experience' an online Journal <<https://www.accord.org.za/conflict-trends/traditional-methods-of-conflict-resolution/>> accessed 27 July, 2020.

³ Erna Roostin, 'Family Influence on the Development of Children', [2018] (2) (1), *Journal of Elementary Education*, 3.

dispute and also look into ADR process in India and Nigeria with respect to resolution of marital disputes. Furthermore, this paper will discuss some issues that may come up when ADR process is adopted to resolve marital disputes that is; whether ADR process in marital disputes is binding; whether ADR process has advantage over litigation in resolution of marital dispute and whether ADR mechanisms are appropriate to all issues arising from marital dispute.

Alternative Dispute Resolution (ADR)

The practice of ADR processes such as negotiation, mediation/conciliation and arbitration cannot be over emphasized.⁴ It can be used to resolve dispute between individuals, couples, governmental bodies, parties in court, between states and in fact, it is practiced every day⁵. ADR does not have a uniform and agreed definition. However, from the general point of view, people intend

⁴ ADR processes has been categorized into three, the primary ADR processes which comprises of the negotiation, mediation/conciliation and arbitration; the secondary ADR processes which are; private judging and mini- trial and the hybrid processes which are; med-arb, ombudsman and summary trial. See L. A. Ayinla in 'Alternative Dispute Resolution: Exploiting the Potentiality of Mini- Trial' [2013] (5) (1) *Port Harcourt Law Journal*; 43. The list is not exhaustive as there are other ADR processes highlighted elsewhere which are not commonly practiced in Nigeria. Susan Patterson and Grant Seabolt, *Essential of Alternative Dispute Resolution* (2nd edn, Dallas Texas, 2001) p 8-20, see also J. O Orojo and M. A. Ajomo, 'Law and Practice of Arbitration and Conciliation in Nigeria' (Mbeyi & Associate 1999) 4.

⁵ ADR process is equally a process by which individuals communicate on a daily basis either in commerce or everyday life to agree and reconcile a dispute or disagreement that may not even require the involvement of a third party. See also Section 19 (d) of the 1999 Constitution of the Federal Republic of Nigeria as amended, various High Court Rules support the adoption of ADR processes before going into litigation i.e. Order 25 of High Court Civil Procedure Rule of Lagos State and so on.

ADR as an alternative way of settling dispute compared to litigation.

ADR has been defined in different forms by different scholars and some of the definitions will be considered. Brown and Marriot⁶ defined ADR as a range of procedure that serve as an alternative to litigation through the courts for resolution of disputes, generally involving the intercession and assistance of a neutral and impartial third party. Karl Mackie⁷ described ADR as a structured dispute resolution process with third-party intervention which does not impose a legally binding outcome on the parties. ADR has also been defined as a structured negotiation process during which the parties in dispute are assisted by one or more third person(s), the 'Neutral', and that is focused on enabling the parties to reach a result whereby they can put an end to their differences on a voluntary basis⁸.

It is crystal clear from the above definitions, the summary of ADR is centered on settlement of disputes out of courts by a neutral party or parties without imposition of binding decision. Therefore, the use of ADR to settle marital disputes means the adoption of consensual and amicable ways of resolving marital disputes between couples with or without the help of a third

⁶ Henry Brown and Author Marriot, *'Principles and Practice of ADR'* (2nd edn, Sweet & Maxwell, 1999) 12.

⁷ Karl Mackie *'The ADR Practice Guide: Commercial Dispute Resolution'* (3rd edn, Tottel, 2007) 8. See also Kehinde Aina on Dispute Resolution (NCMG International and Blankson LP, 2012) and Paul O. Idornigie *'Commercial Arbitration Law and Practice in Nigeria'* (Law lords, 2015) 29.

⁸ J .C Goldsmith, G. H. Pointon and A. Ingen-Honz *ADR in Business, Practice and Issues Across Countries and Cultures* (Kluwer Law International, 2006) 6.

party called the neutral to arrive at a win-win solution which is not binding⁹.

Marital Dispute

Marital dispute is not just a difference of opinions; rather it is a series of events that have been poorly handled such that it deeply damage the marriage relationship. Dispute is stressful and comes with confrontation and violence, but at the same time, it can result in the creation of productive solutions that addresses the needs of all family members¹⁰. Marital disputes occur when what couples want is at cross opposite, especially when they find themselves at cross opposite on almost everything in life. It can also be experienced when either of the spouses is unwilling to meet the demands of the other which might lead to resentment, selfishness, unruly tongues which make the situation become ripe for open conflict¹¹.

⁹ However, it is submitted that these definitions omit the fact that, it can also be used as a supplement to litigation. In the light of this, ADR is defined as the methods and procedures used in resolution of disputes either as alternative to the traditional dispute resolution mechanism or in some cases supplementary to such mechanism for the purpose of reaching an amicable settlement with or without the help of a third party.

¹⁰ See Andrew Floyer Acland, *'A Sudden Outbreak of Common Sense; Managing Conflict Through Mediation'* (1990), 69, where he opined that the purpose of conflict is related to change and all conflict is about the attempt to achieve or resist change.

¹¹ What is Marital Conflict <<http://www.allaboutlifechallenges.org/what-is-marital-conflict-fag>> accessed 20 October, 2019. Marital dispute can impact deleterious effects on mental, physical and family health in the spouse which can lead to depressive symptoms, eating, disorders, alcoholism, physical aggression, poor parenting, poor adjustment of children, increased likelihood of parent child conflicts, and conflict between siblings. It has negative influence on the children in terms of behaviors etc.

Marital dispute is a process of conflicts arising between the couple in a marriage which can indicate sexual disagreement, child minding differences, temperamental differences and even religious conflict of interests¹². Marital dispute can be about virtually anything ranging from verbal and physical abusiveness to personal characteristics and perceived inequity behaviours, marital dissatisfaction and so on¹³. When couples are unable to navigate their disagreement they fall into fairly predictable pattern of behaviours which predicts mental conflict but with effective communication and conflict resolution skills, couples can work through their problems rather than avoiding or forcing the issues. It must be pointed out that, the need for couples to reconcile their marital disputes will necessitate the adoption of ADR process for amicable settlement. Having said this, it is important to look into the causes of marital dispute.

Causes of Marital Disputes

According to Cathy Meyer¹⁴, there are a lot of factors that can be responsible for disputes, some of which are:

¹² What is Marital Conflict, Definition of Marital Conflict <<http://psychologydictionary.org/marital-conflict>>. accessed 24 October, 2019. Another behavioural pattern experienced during marital conflicts is the demand- withdraw pattern in which one spouse pressure the other with demands, complaints and criticisms, while the partner withdraws with defensiveness and passive in action majorly the husbands withdraws and the wife responds with hostility.

¹³ See F. D. Finchamle, 'Marital Conflict Correlates Structure; and Context' <<http://www.psychologicalscience.org/journal/cd/12-1/fincham.cfm>> accessed 24 October, 2019. See also D. H. Baucom, and et al 'Empirically Supported Couple and Family Interventions for Marital Distress and Adult Mental Health Problem' [1998] *Journal of Consulting and Clinical Psychology*, 53-88.

¹⁴ Cathy Meyer, "Conflicts That May Lead to Divorce". <<http://divorcesupportabout.com/od/isdivorcethesolution/>

1. Infidelity: It affects the commitment of spouses and destroys it; it is one of the common sources of stress and disharmony in marriage which can lead to withholding sex to punish a spouse, breaking of the marital bond, cheating on a partner and so on.¹⁵
2. Domestic violence: Domestic violence is not limited to physical combat or use of other instrument to fight. Domestic violence includes negative verbal utterances, economical abuse, irresponsible behaviours, religious abuse and emotional abuse.¹⁶
3. Controlling behaviours: This mostly happen when a spouse tries to run the house like a personal business, that is when a spouse wants to get his/her way through every time irrespective of the feelings and opinion of the other party. This attitude if not controlled can definitely lead to marital dispute.
4. Finances: Disagreement over finances may cause marital conflict especially when a saver marries a spender. For instance, the wife might feel she is rescuing the husband by providing the necessities at home whereas, the husband

a/maritalconflict.htm>. accessed 26 October, 2019. See also Tolorunleke “Causes of Marital Conflicts Amongst Couples in Nigeria. Implication for Counseling Psychologist” <<http://www.sciencedirect.com/science/article/pii/S1877042814033072>> accessed 26 October, 2019.

¹⁵ Isaiah Mobolaji Ojedokun, ‘Extramarital Affair as Correlate of Reproductive Health and Home Instability Among Couples In Ibadan, Nigeria’ [2015] (5) (2), *African Journal of Social Work*, 3-4

¹⁶ Michele Lloyd, ‘Domestic Violence and Education: Examining the Impact of Domestic Violence on Young Children, Children, and Young People and the Potential Role of Schools’, [2018] an online *Journal of Frontiers in Psychology* <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6243007/>> accessed 19 July, 2020.

might have a contrary opinion and regard the wife as a miser. This is more complicated in situations where husbands and wives keep a joint account or where the wife is a full house wife. If this indifference is not well managed by the couple, one of the parties to the marriage might rebel against the other and the other too might react by even being worse. Most couples argue over bills, debts, spending and other financial issues thus, financial decision has much impact on the family.¹⁷

5. Parenting role: Different approach to parenting can be a cause of marital dispute, especially where the couple have different background and upbringing and the manner of raising their own children can cause a rift. A wife might be too strict with the children while the husband on the other hand might be too lenient. Thus, there would be opposite reaction by the parents towards their children because while the husband might feel the wife is too lax about the children the wife might also feel the husband is being over protective as well.¹⁸
6. Poor communication: Poor communication and lack of spending quality time together between spouses can make them become out of sync with each other. Poor management of marital issues through communication process can create a lot of marital dispute. When there is poor communication management between couples, any

¹⁷ Jeffrey Dew and John Dakin, 'Financial Disagreements and Marital Conflict Tactics' [2011] (2) (1) *Journal of Financial Therapy*, 25-26.

¹⁸ Simone Dill Azeredo Bolze et al, 'Marital and Parental Conflicts in Families with Children: Characteristics and Resolution Strategies' [2017] (2) an online *Journal of Paidéia (Ribeirão Preto)*, <https://www.scielo.br/scielo.php?pid=S0103-863X2017000400457&script=sci_arttext&tlng=en> accessed 19 July, 2020.

suspicious move or insinuation can lead to argument.¹⁹ A home where a couple finds it difficult to express their feelings and challenges may not stand the test of time, this is because love, trust and companionship which are the purpose and foundation of every matrimonial home will collapse.

7. High expectations and household responsibility: A marriage in which the parties expect so much beyond normal from each other may not last and this may cause marital dispute. This is because over expectation in a marriage may cause a couple to argue over everything at home such as equitable distribution of domestic works with certain expectations and in most times, they might experience the opposite of what they expected in the marriage and once those expectations are not met, marital dispute may arise²⁰.

The relevance of ADR process for resolution in marital dispute cannot be over-emphasize, there are a lot of homes that have been saved as a result of giving consideration to reconciliation under ADR processes.

Relevance of ADR in Marital Dispute

The relevance of ADR are numerous and include the following;

¹⁹ Oguchi O. Uwom-Ajaegbu et al, 'An Empirical Study on the Causes and Effects of Communication Breakdown in Marriages', [2015], (Vol. 11) *An International Peer-reviewed Journal of Philosophy, Culture and Religion*, 4-5.

²⁰ Leonora Saunders and Cathy Mayer 'Marital Problems that may Cause Divorce' <<http://divorcesupportabout.com/od/isdivorcesolution/gt/marital.discord.htm>>.accessed 28 June, 2020.

1. It allows couples autonomy and privacy during the settlement and promotes voluntary submission²¹.
2. Flexibility and simplicity of the procedure during settlement as against litigation which is purely adversarial in nature.
3. Cost effectiveness.
4. Maximum participation of the couples involved for quick resolution.
5. ADR process involves a neutral third party who has no power to enforce resolution²².
6. ADR processes do not necessarily require the involvement of lawyers though; some form of lawyer's involvement may be desirable but couples can settle the dispute without the need to mirror legal rights²³.

Having said this, it is necessary to point out that ADR process of resolving marital dispute has its own challenges.

Challenges of ADR Process in Resolution of Marital Dispute

ADR are not free from challenges despite its importance and some of the challenges areas follows:

1. The opposing spouse may not cooperate and neither can he or she be forced.
2. The opposing party could try to show dominance which can sole off set the balance of the entire settlement proceedings.
3. The opposing spouse may threaten or frighten the other spouse, this might affect voluntary participation thereby leading a drastically drop down interest.

²¹ *Gunter Henck v Anre & co.* (1970) 1 Lloyd's Rep 235.

²² J. C. Goldsmith, G. H. Pointon and A. Ingen-Honz (n.8), p 6.

²³ *Ibid.*

4. ADR is not suitable to resolve all marital dispute such as divorce and child custody which requires courts sanction.

Appropriate ADR Mechanisms for Resolution of Marital Dispute

There are many ADR mechanisms²⁴ but for the purpose of this paper, negotiation, mediation/conciliation, early neutral evaluation and collaborative law will be considered.

Negotiation

Negotiation is usually regarded as the first step to take in resolving any dispute which is also applicable in marital dispute. Negotiation is the major form of ADR processes because it centres on simple dialogue between the disputing parties to resolve the conflict between themselves. It is the '*primus inter pares*' which means first among equals²⁵. Negotiation is a prelude, and as such it is indispensable for couples to dialogue over any dispute at hand for reconciliation purpose. It is a fundamental key to all consensual ADR process and also the most satisfactory method of dispute resolution because it can be done without the involvement of a third party²⁶.

Negotiation is adopted in daily activities of couples because it involves discussions, concessions, communication, persuasions

²⁴ There are a lot of ADR mechanisms some of which are arbitration, mediation, conciliation, negotiation, mini trial, private judging, med-arb, arb –med, expert determination, ombudsman and so on.

²⁵ L. A Ayinla, 'Alternative Dispute Resolution (ADR) in Nigeria: A Critique of Getting to the Tipping Point' [2009] (2) *Confluence Journal of Jurisprudence and International Law*, Kogi State University, Ayingba Nigeria, 68-69.

²⁶ *Ibid.*

bargaining and compromise²⁷. Couples are expected to resolve their dispute by themselves through negotiation; by mutual and consensual dialogue but where the agreement cannot be reached they can invite a neutral third party called ‘negotiator’ who will serve as an intermediary between them for resolution purpose.

Mediation/Conciliation

Mediation is a process by which the parties/couples in dispute voluntarily agree to seek the help of a neutral third party called the mediator to assist them in resolving the dispute at hand. In the past, the usual mediators in marital dispute are the elderly members of the family and in the absence of that, either of the parties can seek the help of a third party to help them which can either be a court-connected mediation centres or a private mediator. Conciliation and mediation share many things in common, in conciliation the neutral third party is called the conciliator who is a skilled person on how to resolve dispute in an amicable manner. However, conciliation procedure is slightly different from that of mediation because a conciliator can take more interventionist role in bringing couples together and can suggest solutions which are proactive²⁸.

²⁷ L. A. Ayinla. ‘Alternative Dispute Resolution: Exploring The Potentiality Of Mini-Trial’ [2013] (5) (1) *Port Harcourt Law Journal*, 45

²⁸ In conciliation, parties may submit the statements of the facts that caused the dispute to the conciliator describing the nature of the dispute and pointing to the issue. Parties are also allowed to send a copy of the statement of fact to each other. The conciliator may also request to see the parties and communicate with them orally or in writing when it appears to him that an element of settlement exists, he may draw up terms of settlement and send it to parties for their acceptance. The parties will sign the terms of settlement ‘document’ if they agree and it shall be final and binding on them. See Tecele Hagos Bahta, ‘Amicable Dispute Resolution in Civil and Commercial Matters in Ethiopia: Negotiation, Conciliation and Compromise’, [2019] (13) (1) *Journal of Mizan Law Review*, 11.

In mediation, the mediator is the neutral person who helps the couples in dispute to clearly define the conflicting issues and tone down the communication process to a rational discussion. The mediator does not make decisions for the couples but helps them to make decision they believe is in everyone's best interest.²⁹ Mediation usually take place at Court-connected Mediation Centres where the services are free or a nominal fee may be charged, private mediators who mostly charge per hour may also be engaged and the fee will be shared by the parties. There are various instances in which matters pending for years have been resolved within 12 to 18 hours in 4 to 5 sittings³⁰. Mediation is however advisable when couples find it hard to communicate, when they need to manage stress and high emotions, when they need to balance future plans with practical discussions and so on.

Early Neutral Evaluation (ENE)

Early Neutral Evaluation (sometimes known as private judging) is a new family court programme that provides parents and their legal counsel with a short-term, confidential, evaluative process designed to facilitate timely resolution of family dispute, custody and parenting time matters³¹. The program offers an amicable solution to parents involved in custody and parenting time disputes as they

²⁹ *Ibid.*

³⁰ Bukola Faturoti, 'Institutionalised ADR and Access to Justice: The Changing Faces of the Nigerian Judicial System', [2014] *Journal of Comparative Law in Africa*, 6-7.

³¹ Joanne Paetsch and John-Paul Boyd, 'An International review of Early Neutral Evaluation Programs and Their Use In Family Law Disputes In Alberta', [2016] *Journal published by Canadian Research Institute for Law and the Family*, 3-4. ENE is also a process in which an experienced lawyer gives an indication, as strong and as detail as the disclosure at that early stage allows, of what would be the outcome if the matter were to be finally adjudicated in court and is majorly without prejudice. It therefore avoids having to go to court.

make decisions together with the help of their legal counsel.³² This process is usually completed within one month and 75% of divorcing couples who participate in the program avoid a court trial and save money³³. Most importantly, divorcing couples develop and preserve co-parenting skills that allow them to avoid future court costs and the stresses that such conflicts impose on their children.

Early Neutral Evaluation is one form of ADR that occurs at early stage of divorce process. The purpose of ENE is to help couple in dispute to reach an agreement on the contested issues in a confidential and non-binding process.³⁴ Under this process, the attorneys of the parties will negotiate and decide with the help of an evaluator on issues at hand and possible ways of resolving them, they thereafter submit their recommendations to the judge for approval. After the judicial approval, the attorneys will schedule how to go about the process where the couples can tell their stories on the issues.

If the couples reach an agreement, they can reduce it into writing and submit it to the court for approval where the court approves it, the agreement becomes a court order³⁵. In *Seals v Williams*³⁶ is a

³² Rebecca Aviel, 'Family Law and the New Access to Justice Family Law and the New Access to Justice', [2018] (86), (5) *Journal of Fordham Law Review*, 2286-2287

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ See Jones Mitchell Early Neutral Evaluation in Faom.au/blog/early-neutral-evaluation-in-family. Law Available online at <<http://www.jonesmitchell.cion-family-law/>> accessed 28 October, 2019.

³⁶ [2015] EWHC 1829 (CH) See Rhys Taylor Early Neutral Evaluation of cohabiting and Inheritance Act disputes. <<http://www.familylaw.co.uk/news-and-coment/early-neutral-evaluation-of-cohabitation-and-inheritance-act-disputes#.V2-yCBzTWNy>> accessed 28 October, 2019.

case about inheritance under Inheritance Act dispute, Norris J. commended the suggestion that parties engage in judge-led Early Neutral Evaluation (ENE), and added that the process is particularly useful where the couples have very differing views of the prospect of the success and perhaps an inadequate understanding of the risk of litigation itself.

ENE is not mediation because the person conducting it gives an opinion, based on considerable legal experience on what is likely to happen if the matter went to court, however he may adopt the spirit in the tone of a mediator to assist the couples³⁷.

Advantages of Early Neutral Evaluation

1. It saves cost and stress
2. It is quicker than a final hearing
3. It can be arranged at the convenient time of the parties including out of office hours.
4. It saves the hostility and contentious environment of a fully contested final court hearing.
5. It is effective in financial settlement on divorce or other relationship breakdown.

Corroborative Divorce

Going through a divorce can be a difficult and confusing thing. Divorce often involve lawyers, court, dates, a lot of time and costs especially when the couples disagree on numerous issues. A few people find themselves in a very straightforward divorce where there are no much issues for the couples to contest; thus, they may only need guidance with divorce papers without much delay. At

³⁷ Norman Zakiyy Chow1 and Kamal Halili Hassan1, 'Integrating Early Neutral Evaluation into Mediation of Complex Civil Cases in Malaysia' [2014] (7) (4), *Journal of Politics and Law*; 142.

times, couples may not find it difficult to agree on some issues ancillary to divorce and willing to settle such out of court such as child custody, support, division of properties out of court.

Collaborative divorce³⁸ refers to the process of removing disputes from the “fight and win” setting of a courtroom into a “troubleshoot and problem solve” setting negotiation. Thus, a collaborative divorce is a process by which parties voluntarily use mediation and negotiation to settle their divorce. Some courts even make it mandatory that divorcing couples must try mediation and collaborative divorce before litigating in court³⁹. What drives the process faster is the commitment of the parties to undergo the process, disclosure of all information and documents relevant to the issues and reducing it into written agreement⁴⁰.

In collaborative law setting, the spouses and their respective counsel meet as a neutral setting such as an office or a conference room and begin negotiation, everyone present can contribute positively. Although, it is different from mediation because there is no neutral third party at the centre of the collaborative process⁴¹. However, parties may agree to hire experts where needed, to assist

³⁸ The collaborative law process was founded in the early 1990's by Minnesota family law attorneys who were looking for a more civil, straightforward and fairer approach to divorce cases. However, there has been an increase in the trend of using collaborative process and it has even extended to resolve dispute arising from employment and business relationships. The hallmark of collaborative law is to resolve matters amicably without recourse to court and the entire related matters ancillary to divorce.

³⁹ Marilyn Scott and Pauline Collins, 'The Challenges for Collaborative Lawyers in Providing CP Processes', [2017] 31 *Australian Journal of Family Law*, 27-28

⁴⁰ *Ibid.*

⁴¹ Collaborative Law, Collaborative Practice, Collaborative Divorce <<http://www.collaborativepractice.com/>>. accessed 29 October, 2019.

them in some technical areas such as accounting matters, assets valuation and so on⁴². However, it appears this has not gained popularity in Nigeria compared to other countries especially in India.

Benefits of Collaborative Law

1. It provides a quicker and less expensive method of resolving family dispute when compared with litigation however, it could be more expensive if the parties could not reach settlement.
2. It reduces stress and hostility on the participants in terms of their relationship.
3. It encourages free flow of information exchange, open and honest discussion between the disputants.
4. It helps the parties to decide on how to handle post-settlement disputes.
5. Couples have much say in the process of negotiating to decide on what work best for them.

It is important to examine the importance and development of ADR on marital dispute from other countries and as earlier stated, ADR process in resolving marital dispute in India will be considered.

ADR Processes in Marital Dispute in India

The application of ADR in marital dispute is not a new concept in India because this has been in practice over years. In the ancient India, marital disputes are generally resolved by the intervention of

⁴² For instance, spouses who decided to use the collaborative process to finalize a divorce may complete successful negotiation and enter into a comprehensive written agreements and obligations related to issues like child support, custody, visitation and division of property. See Divorce; Overview. <<http://findlaw.com/divorce/collaborative-family-law-overview.html>>. accessed 30 October, 2019.

Kilas (Family Assembly); Shreni (association of men of similar occupation); and so on and the primary object of such movement is avoidance of vexation, expenses and delay and promotion of justice for all⁴³.

Section 23 (2) of the Hindu Marriage Act, 1995 imposes the duty to protect the sanctity of marriage by applying ADR mechanisms to resolve marital disputes on court before granting reliefs sought for by either of the spouse under the Act, the court should in the first instance; make an endeavour to bring about reconciliation between the couples; where is it possible according to the native law and circumstance of the case. Section 23 (3) of the same Act further provides that, for the purpose of reconciliation, the court may adjourn the proceeding for a reasonable period and refer them to persons nominated by the court or couples themselves with the direction to report the result of the reconciliation back to the court⁴⁴.

In addition to that, the Indian Family Court Act of 1984 also established the Family Court in India with the view to promote reconciliation and ensure speedy adopting approach for settlement

⁴³ Graham Masher 'Alternative Dispute Resolution Trend, Trap and Benefits-Litigation, -Mediation and Arbitration-Australia' <<http://www.mondaq.com/australia/x170796/Arbitration+DisputeREsolution/trent+traps+benefits>>.accessed 4 November, 2019.

⁴⁴ This is equally supported by International Centre for Alternative Dispute Resolution (ICADR) established in Delhi on 31st May, 1995 and it is an autonomous non-beneficial institution, the chief object of its establishment is to inculcate and expand the culture of ADR. Section 89 of the Traditional Civil Procedure Code (CPC) provides for the settlement of dispute out of court. It provides that where it appears to the court that there exist elements which may be acceptable by the parties the court may formulate the terms of a possible settlement and refer the same for arbitration, conciliation, mediation or judicial settlement.

of disputes relating to marriage, family affairs and matters connected therewith by adopting an approach radically different from the ordinary civil proceedings. Section 9 of the said Act lays down the duties of the family court which is to assist and persuade the couples at first instance in arriving at a settlement in respect of the subject matter⁴⁵.

LokAdalat is another system of dispute resolution in India. Although it was formally established for debt recovery dispute but it has added marital dispute resolution as part of its proceedings⁴⁶. The focus of LokAdalat is on compromise and to give the opportunity of being heard to the two parties. The court is usually presided over by a retired judge and there is no court fee or rigid procedural requirement. However, if the parties are able to reach an amicable settlement, they can reduce it into writing and sign it to make a consent judgment which is binding and enforceable in court⁴⁷.

Furthermore, the India courts also encourage the resolution of marital dispute through ADR mechanisms as posited by Justice Ranjana Prakash Desa of the Supreme Court of India in the case of

⁴⁵ Latha K “The Role of Mediation and Conciliation on Family Related Disputes in India” <<http://familylawyers.in/Article.html>>. accessed 4 November, 2019.

⁴⁶ Gregg Relyea, Niranjana J. Bhatt, ‘Comparing Mediation and LokAdalat Toward an Integrated Approach to Dispute Resolution in India’.<<http://www.mediate.com/article/relyeaGbbhattNI.cmf?nl=215>> accessed 6 November, 2019. LokAdalat system contributed under National Legal Service Authority Act 1987 is a unique Indian approach. It is a non-adversarial system whereby the mock courts (called LokAdalats) are held by the state authority.

⁴⁷ Sharad Mishra, ‘Justice Dispensation through Alternative Dispute Resolution System in India Legal News/ Articles’.<<http://www.legaindia.com/justice-dispensation-through-alternative-dispute-resolution-system-in-india>> accessed 6 November, 2019.

*K SrinivasRoa v D. A. Deepa*⁴⁸ where he issued a directive to all courts delaying with matrimonial disputes to settle all matrimonial disputes at first instance through the process of mediation. He further directed the Family Court in view of section 9 of the Family Court Act to make all efforts to settle matrimonial disputes especially in relation to maintenance, child custody etcetera through the process of mediation, and refer couples to mediation centre even after the failure reports by counselors to avoid delay⁴⁹. Moreover, in *T. Vined v Manju S. Nair*⁵⁰ the High Court of Kerala re-emphasized the provision of Article 14 of India's Domestic Violence Law, that the judge may direct parties to undergo counseling either together or singly. In that case, the court appointed a counselor to mediate child custody issues involving an application under Domestic Violence Law and divorce proceedings on the basis of cruelty. A settlement was reached with the counselor and the court held that matrimonial cases must exhaust court mediated settlement options prior to starting of legal proceedings.

Furthermore, in Delhi more than a million marriages take place every year while more than 8,000-9000 divorce cases are filled every year⁵¹. In fact, an average of 10 cases is filled per day in just

⁴⁸ Civil Appeal No. 1794 of 2013. The court equally encourage parties in marital dispute to settle offences under section 498A of the Indian Penal Code which are complaints of harassment, cruelty or demand of dowry filed by wife against husband and relatives of husband to be resolved through mediation process which are non-compoundable offences and where compromise cannot be reach the court will issue directions.

⁴⁹ *Ibid.*

⁵⁰ (2008) 1 KLJ 525.

⁵¹ Soutik Biswas, 'What divorce and separation tell us about modern India', BBC News, uploaded on 29th of September, 2016. <<https://www.bbc.com/news/world-asia-india-37481054>>. accessed 26 May, 2019.

one court⁵². However, the ADR mechanisms have given the judiciary a more humane approach in resolving the matter because many couples who filed for divorce have given it a second thought and many families have been restored through mediation within 5 sittings and over a cup of coffee⁵³. Out of 7,473 cases on marital disputes handled by mediation within 3 years, 7,264 were disposed of out of which 4,605 cases were amicably resolved successfully says Kapoor, the Judge in charge of the mediation centre in Tis Hazari Court, India⁵⁴.

ADR Processes in Marital Disputes in Nigeria

Before the establishment of modern courts people have a lengthy history of informal dispute resolution especially in marital matters in Nigeria. This indigenous process of dispute resolution, vary widely in their characteristics due to cultural, political and other influences to promote peace in the society. However, after the advent of the colonial matters, the process of dispute resolution changed majorly from indigenous ways to court process. Nevertheless, people still adopt amicable settlement especially in matrimonial matters which is even encouraged by Nigerian court except where such marriage has broken down irretrievably.

In Nigeria, the Marriage Act⁵⁵ and Matrimonial Causes Act (MCA)⁵⁶ are the major legal frame work regulating matrimonial matters under statutory marriage. Section 11 of the Matrimonial Causes Act makes provision for reconciliation to be tried before going into litigation. It is the common practice of the courts to

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ Cap M6 Laws of the Federation of Nigeria 2004

⁵⁶ Cap M7 Laws of the Federation of Nigeria 2004

direct couples to reconcile when dispute arises rather than going into litigation or heading for divorce.

Thus, section 11 (1) of the MCA⁵⁷ provides that “It shall be the duty of the court in which a matrimonial cause has been instituted to give consideration, from time to time, to the possibility of a reconciliation of the parties to the marriage (unless the proceedings are of such a nature that it would not be appropriate to do so), and if at any time it appears to the judge constituting the court, either from the nature of the case, the evidence in the proceedings or the attitude of those parties, or of either of them, or of counsel, that there is a reasonable possibility of such a reconciliation...”.

The Act does not expressly mention ADR but by implication, the essence of the reconciliation used in that section 11 of the MCA signifies amicable and consensual resolution of marital dispute, thus, the Act recognizes the adoption of ADR processes in resolving marital disputes. Furthermore, it can be said that resolution of marital dispute through ADR processes is not limited to the marriage under the Act alone because customary courts are also expected in all civil matters to employ resolution of dispute amicably before resorting into litigation which includes matrimonial matters⁵⁸.

⁵⁷ Section 11 (1) *ibid* note, the judge may do all or any of the following, that is to say, he may adjourn the proceedings to afford those parties an opportunity of becoming reconciled or to enable anything to be done in accordance with either of the next two succeeding paragraphs; with the consent of those parties, interview them in chambers, with or without counsel, as the judge thinks proper, with a view to effecting a reconciliation; nominate a person with experience or training in marriage conciliation, or in special circumstances, some other suitable person, to endeavour with the consent of the parties, to effect a reconciliation.

⁵⁸ See Section 18, Customary Court Law, 1981 (Ondo State); Section 23, Customary Courts Law, 1980 (Ogun State); Section 17 Customary Court

Settlement of marital disputes under ADR process is not new under the customary laws of different regions respectively, as it starts with the couples themselves through dialogues and when the matter cannot be resolved by them, either of them can call on the elders in the family to intervene in the matter. No specific reconciliation procedures are prescribed for customary court and consequently each court has the right to adopt the best approach suitable for each case respectively⁵⁹. Reconciliation forms an important aspect of matrimonial dispute so as to allow marital stability and peaceful co – existence in the society. Often, the elderly ones in the family intervene in such situation thereby making it imperative for the couple to submit themselves for reconciliation⁶⁰.

It is not in doubt that the use of ADR in resolving marital dispute is celebrated internationally. The Indian and Nigerian Legislations speak volume on the relevance of ADR processes in resolution of marital dispute. This can be observed from the provisions of Section 23 sub-sections (2) and (3) of the Hindu Marriage Act, 1995 and section 11 sub-section (1) of the MCA in Nigeria respectively which provide that the court should direct parties in marital dispute to reconcile and try all the amicable settlement options before resorting to litigation.

Some of the likely issues that might arise as a result of using ADR to resolve marital dispute as follows:

- i. Whether the decision reached in ADR process in marital dispute is binding;

Edict 1984 (Anambra State); Section 18 Customary Court Edict 1984 (Imo State); Section 17, Customary Courts Law, (Lagos State); Section 18 Customary Court Law 1980 (Bendel State).

⁵⁹ Nwogugu E. I., '*Family Law in Nigeria*' (Revised Edn, Heinemann Education Books Nig, 2006) 121.

⁶⁰ *Ibid.*

- ii. Whether ADR process in marital dispute is advantageous than litigation;
- iii. Whether ADR mechanisms are appropriate for all issues arising from marital dispute;

Issue N0 1

Whether the decision reached in ADR process in marital dispute is binding;

ADR is characterized with distinctive features of being a voluntary and non-binding way of resolving dispute in which parties play significant roles to reach a consensual agreement.⁶¹ Thus, ADR does not intend to have a binding effect on the parties because it is meant to be a mutual agreement as opposed to litigation which is adversarial and confrontational in nature.⁶²

However, if ADR methods are not binding, of what importance would it be for the parties after much commitment of time with no positive or binding effect? Considering the question above, it is necessary to point out that ADR process can be made binding and enforceable in court. Thus, ADR process has been developed to

⁶¹ Kirty Lohar; 'A Critical Evaluation of the Significance of Parties' Consent and Limitation on Parties' Autonomy With Regards to International Commercial Arbitration'. <https://www.academia.edu/26964455/A_CRITICAL_EVALUATION_OF_THE_SIGNIFICANCE_OF_PARTIES_CONSENT_AND_LIMITATION_ON_PARTIES_AUTONOMY_WITH_REGARDS_TO_INTERNATIONAL_COMMERCIAL_ARBITRATION>.accessed 7 November, 2019.

⁶² Oyesola Animashaun and Kola O. Odeku, 'Industrial Conflict Resolution using Court-connected Alternative Dispute Resolution' [2014] (5) (16) *Mediterranean Journal of Social Sciences*. <<https://www.mcser.org/journal/index.php/mjss/article/view/3620>>. Accessed on 7th November, 2019.

make its resolution binding on the parties provided the parties involved desire to make it binding.⁶³ Disputants can reach an agreement and reduce same to terms of their settlement in writing before the neutral party and when this terms of settlement is signed by the ADR judge such document forms a new contract between them and is binding on them. In addition, this signed agreement or terms of settlement can be taken to court as a consent judgment which is enforceable⁶⁴.

Issue NO 2

Whether ADR process in marital dispute is advantageous than litigation;

ADR appears to have more advantageous characteristics than litigation, however, to determine this, the benefits of the two processes must be considered. The non-binding effect of ADR process has been one of its shortcomings⁶⁵ and as a result, couples might prefer to go court to resolve their dispute especially when the settlement cannot be reached, besides, there are some marital issues which can at best be resolved in court.⁶⁶

⁶³ David Walker, 'Liability and Indemnity: Alternative Dispute Resolution: The two Outcomes of Mediation.' <<https://businessadvice.co.uk/insurance/liability-and-indemnity/alternative-dispute-resolution-the-two-outcomes-of-mediation/>> accessed 8 November, 2019.

⁶⁴ For instance, see section 4(1) of the Lagos Multi-Door Courthouse Law which provides that, an agreement in memorandum of understanding duly signed by the parties and endorsed by an ADR judge or any other person directed by the Chief Justice becomes binding and enforceable under the section 11 of the Sherriff and Civil Process Act. See also, section 19 (1) and (2) of the same law.

⁶⁵ Mark Albright: The Advantages and Disadvantages of ADR. <<https://albrightstoddard.com/advantages-disadvantages-adr/>>. accessed 8 November, 2019.

⁶⁶ Sara M. Butler, 'The Law as a Weapon in Marital Disputes: Evidence from the Late Medieval Court of Chancery', [2004] (43), (3), *Journal of British*

Nevertheless, the relevance of ADR in settlement of marital dispute cannot be overlooked. Considering some of the benefits associated with ADR process such as privacy, confidentiality, voluntary and meaningful participation of the couple in disputes, continuance of existing relationship between the couple, cost effectiveness, time consideration, reduction of mental stress⁶⁷ to mention but a few as compared to litigation which is more formal with binding decisions, not confidential, makes the parties to subject their right of the action to their counsel, wastes time which can be frustrating due to the frequent adjournment, promotes hostility between the parties which can further jeopardize the relationship between them and the children.⁶⁸

The aim of the court on marital dispute issues is to promote reconciliation and protect the sanctity of marriage between parties as provided by Section 11 of the Matrimonial Causes Act. There are times when couples who filed for divorce and later tried ADR process have reconciled which in turn has positive impact on the children and the society. Flowing from the above, it can be submitted that ADR process in marital dispute has advantages over litigation.

Studies, 291-316 Published by: Cambridge University Press on behalf of The North American Conference on British Studies.

<<https://www.jstor.org/stable/10.1086/383597>> accessed 8 November, 2019

⁶⁷ Akin Oluwadayisi, 'Settlement of Matrimonial Causes Through ADR Mechanisms: The Best Alternative to Litigation' <https://www.academia.edu/6898091/SETTLEMENT_OF_MATRIMONIAL_CAUSES_THROUGH_A_DR_MECHANISMS_THE_BEST_ALTERNATIVE_TO_LITIGATION> accessed 8 November, 2019.

⁶⁸ Carl E Pickhardt, 'The Impact of Divorce on Young Children and Adolescents'. <<https://www.psychologytoday.com/intl/blog/surviving-your-childs-adolescence/201112/the-impact-divorce-young-children-and-adolescents>>. accessed 8 November, 2019.

Issue N0 3

Whether ADR mechanisms are appropriate for all issues arising from marital dispute;

Matrimonial issues are usually civil matters and they are not limited to only disputes that occur while the marriages still subsist. There are times in which the issue of custody of children, parenting role, child support, alimony and division of properties to mention but a few come up after couples have separated. In such situation, although, the court usually refer couples in dispute to adopt amicable settlement either by referring them to court-connected mediation centres or private mediators nevertheless, the court has important role to perform in such a situation.

The ADR centres are empowered to resolve matrimonial issues, however only the regular courts have the constitutional and inherent judicial powers to try criminal matters.⁶⁹ Thus, domestic violence cannot be subjected to ADR centres to decide upon. In addition, criminal matters arising from marital dispute such as infliction of grievous bodily harm on a spouse, bigamy, divorce, custody of children, desertion of children, incest and sexual abuse against the children by either of the spouses and so on are best resolved by the regular courts.⁷⁰

⁶⁹ Nathan J. Brown and Julian G. Waller; 'Constitutional Courts and Political Uncertainty: Constitutional Ruptures and the Rule of Judges' [2016] (14) (4) *International Journal of Constitutional Law*, 817–850 <<https://doi.org/10.1093/icon/mow060>> accessed 9 November, 2019.

⁷⁰. Edna Erez, 'Domestic Violence and the Criminal Justice System: An Overview' (7) (1). An online *Journal of Issues of Nursing* <<http://ojin.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableofContents/Volume72002/No1Jan2002/DomesticViolenceandCriminalJustice.html>>.accessed 10 November, 2019.

Lessons Nigeria can Learn from India on Amicable Settlement of Marital Dispute to Develop its Law Reform

Nigeria can learn from India on settlement of marital dispute by developing Mediation and other ADR processes under Nigerian Legislations. In India for instance, there are more provisions related to settlement of matrimonial dispute such as; Hindu Marriage Act, 1955, Special Marriage Act, 1954, Family Court Act, 1984, Civil Procedure Code, 1908, Legal Service Authority Act, 1987 and so on.⁷¹ Whereas, in Nigeria, the main legislation regulating matrimonial related issues is MCA. In India for instance, the Legal Service Authority Act provides for holding Lok Adalats where disputes are pending in courts of law. Lok Adalat system which is also known as “People’s Court” under the Legal Services Authority Act was established to render competent legal services through serving or retired judicial officers and other persons of eminence for free to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.⁷² Matrimonial matters that are settled in Lok Adalats can be drawn up into an agreement that can be affirmed by the respective matrimonial courts as consent decrees or judgments. Nigeria government can also develop more on this, by bringing this type of settlement closer to the people especially those who are not in the cities.

Another area where Nigeria can learn from India is through the concept of Family Court. There is Family Court Act⁷³ in India which empowers the Family Court officials to imply an integrated

⁷¹ Bhagya Lakshmi, ‘Mediation: Marital Conflict Resolution Therapyn’ [2016] (73) *Bharati Law Review* 84-85.

⁷² M.P. Paridhi Selvan and Dhinesh, ‘A Study on LokAdalats in Indian Legal System’, [2018] (119) (17) *International Journal of Pure and Applied Mathematics*, 301-302

⁷³ The Family Courts Act, No. 66 of 1984.

broad based service to families in trouble, preserve the family in dispute and help stabilize the marriage. The Indian family Court system projects a less formal procedure, where legal technicalities and technical procedures are not to be followed with the aim to provide dignified means for parties to reconcile their differences to reach amicable settlements without the need for frivolous litigation.⁷⁴

In Nigeria, some states like Lagos and Ekiti have Family Court.⁷⁵ However, Family Court is needed in all the states in Nigeria to reduce the rate at which domestic violence and divorce are prevalent in Nigeria. The establishment of Family Courts in all the states in Nigeria will promote reconciliation and secure speedy settlement of disputes relating to marriage and other related family affair matters.

Matrimonial litigation in Nigeria is becoming extremely complex particularly on those relating to custody of child and maintenance. It is submitted that if there are adequate establishment of Family Court in Nigeria with federal legislations, there will be reduction in divorce rate. In India, Family Court judges can work with mediation centres to promote peace settlement of marital dispute. Thus, Section 942 of the Indian Family Courts Act allows Family Court to settle matrimonial disputes with the help of Counsellors and where the Counsellors fail in their efforts, the Family Courts should direct the parties to mediation centres, where trained

⁷⁴ Bhagya Lakshmi, 'Mediation: Marital Conflict Resolution Therapyn' [2016] (73) *Bharati Law Review* 86

⁷⁵ See, Family Court of Lagos State (Civil Procedure) Rules 2012. See also, 'Fayemi's Wife Lauds Ekiti First Family Court', Published by Government of Ekiti State. <<https://ekitistate.gov.ng/fayemis-wife-lauds-ekiti-first-family-court/>> accessed 18 July, 2020

mediators are appointed to mediate between the parties. The Family Courts in Nigeria should do more to synergize with mediation centres to promote peaceful co-existence among estranged couples. In addition, Nigeria can learn from India and other developed countries on amicable settlement of marital dispute by adopting collaborative divorce process. This method is not popular in our judicial system, whereas, the benefits attached to the system is numerous especially if the estranged couple are ready to part ways. Collaborative divorce helps to resolve post-divorce related issues such as child custody and settlement of properties jointly acquired by the parties.⁷⁶ In Nigeria, some estranged couples who had divorced still find themselves in court due to non-compliance of one of the parties to the earlier decree or judgment made more particularly on child custody and settlement of properties. Thus, if collaborative divorce process is adopted in Nigeria as a lesson from other countries like India and Australia, all likely issues that could come up after divorce would have been taken care off with mutual understanding.

Conclusion

Alternative Dispute Resolution has always been relevant in resolving marital disputes in various forms. It can be said that, the union of two people from different backgrounds and orientations cannot be free of dispute which may come in various forms. Although, dispute is usually seen as a negative thing but there are times it brings about positive changes that is when couples disagree in order to agree but what is important is to reach an amicable settlement without recourse to litigation.

⁷⁶ David Hoffman and Pauline Tesler, 'Collaborative Law and the Use of Settlement Counsel' in B. Roth, (ed), *The Alternative Dispute Resolution Practice Guide*, (West Publishing, 2002) 12.

This paper has explained ADR process in marital dispute as the methods and procedures used in resolving disputes by the couples either as alternative to litigation or in some cases supplementary to it for the purpose of reaching an amicable settlement with or without the help of a third party. Marital dispute has also being explained as anything ranging from verbal and physical abusiveness to emotional and perceived superiority, which can cause marital dissatisfaction. The paper went further to highlight some of the causes of marital dispute which are infidelity, domestic violence, finances disagreement, parenting role, and so on.

Some of the importance of ADR process in marital disputes are privacy, confidentiality, voluntary and meaningful participation of the couples in disputes, continuance of existing relationship between the couples and cost effectiveness. This paper further sheds light on the appropriate ADR methods for marital dispute settlement which are not limited to negotiation, mediation/conciliation, ENE to mention but few and a further extension was made by looking at ADR process in marital dispute in India and Nigeria.

Moreover, **three issues** with respect to ADR process in marital dispute **resolution are highlighted. They are** whether the resolutions from ADR process in marital dispute are binding; whether ADR process in marital dispute is advantageous than litigation; and whether ADR **mechanisms** are applicable to all issues arising from marital dispute. With respect to the first issue, it has been submitted in this paper that ADR process is not binding; however, the parties can make it binding if they agree to reduce the terms of settlement into writing, signed and taken to court as consent judgment.

On the second issue that ADR has various advantages over litigation by considering its consensual and amicable way of resolving dispute which allows for a win-win situation as against litigation which is adversarial, confrontational and win-lose in approach. With respect to the third issue, it has been submitted in this paper that ADR mechanisms can handle only civil matters related to marital disputes, it is not appropriate for divorce, child custody, domestic violence and other criminal matters arising from marital dispute.

The assumption to reconcile marital dispute is the key to a successful marriage and can modify couples lives in their day to day activities. The root of almost all serious marital discord is selfishness on the part of a spouse, thus, to save a marriage means rejecting selfishness, giving up pride, forgiving hurt and setting aside bitterness; these steps may be difficult but the best way to avoid spiral of marital dispute. Having said this, the relevance of ADR process in settlement of marital dispute is indispensable due to the usual occurrence of marital dispute in matrimonial homes. However, it is better to resolved marital dispute amicably using ADR mechanisms, while it appears the best if marital dispute can be avoided.

Recommendations

- i) The Federal government should establish more family courts across the country particularly to assist the regular courts in resolving marital dispute and other related disputes.
- ii) The Nigerian government should enact more national legislations on matrimonial and other domestic related matters, especially on the establishment of Family Courts across all the states in Nigeria.

- iii) The Nigerian government should make adequate provisions to sensitize the public through the media or other medium on the importance of exploring ADR mechanisms to resolve marital disputes.
- iv) There should be adequate provision for rehabilitative centres with good and experience marriage counselors from both government and non-governmental organizations to counsel married people and prospective couples on how to enhance marital stability in the midst of societal pressure.