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Role of Mediation in Resolving Construction Disputes: A Study of Mediation Centre in Kwara State

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Abstract

This paper examines the benefits of Alternative Dispute Resolution (ADR) mechanisms specially designed for dispute resolution emanating from the construction industry. ADR was introduced to fast-track construction dispute cases, enable delivery of projects as and when due, and foster relationships among stakeholders in the industry. Unfortunately, the ADR Centre established in Kwara State is yet to utilize this opportunity for resolution of construction disputes occurring in the State. This paper found the need for the use of ADR process to settle all the construction disputes awaiting trials in courts at the ADR Centre established for Kwara State. Literature was reviewed to show the impact of mediation mechanism on construction dispute resolution in the UK construction industry and the lessons for ADR Centres in Nigeria, Kwara State ADR Centre to be specific. The findings of the paper revealed that the Centre has not been able to provide more enlightenment to the public on the relevance of ADR Centre for speedy and effective delivery of construction dispute resolution. Given the fact that the use of litigation in the resolution of construction disputes has occasioned delay hence the need to result to ADR for effective construction dispute resolution. The paper suggests that the use of ADR will bring about cost-effective and time-bound resolution mechanism that will make the industry rise among its counterparts.

Keywords: Alternative Dispute Resolution, Mediation, Construction Disputes, Kwara State, UK.

Introduction

Generally speaking, construction industry contributes immensely to the socio-economic development as well the fulfillment of the societal needs given the number of construction projects awarded daily either by individuals or government. However, the most striking aspect of this is that many of these projects have been abandoned due to disputes.¹ The concern of this study is that disputes emanating from construction contracts are yet to be properly addressed within the existing ADR legal framework for dispute resolution in Kwara State. This has led to a number of abandoned projects in the state.² The inadvertent delay of construction cases occasioned in courts has resulted into loss of time, cost and quality of these projects. Litigation has been the preferred form of dispute resolution in construction projects because it allows the court to determine and enforce party's right or obligation. However, litigation has proved to be time consuming and expensive and this has given rise to the use of arbitration in construction disputes. Arbitration in terms of cost and time is more beneficial than litigation. It almost shares the same features as litigation, hence the need to introduce other Alternative Dispute Resolution (ADR) in the construction industry. Nowadays, resolving disputes with alternative forms of dispute resolution has been on the rise in the construction industry because of the complex nature of construction disputes and the high cost of resolving disputes through litigation and the damage that these have impacted on the parties' business relationships.³

Moreover, parties wish to have control over their matters given the complex nature of the industry, hence the need for experts in the field to give rulings in line with professional ethics that will satisfy all parties

¹ Ibid.

² According to a former Director-General of the Bureau of Public Procurement, Eneke Eze, there are 19,000 such projects in various stages of abandonment. One often cited tragic example is a large scale water supply project started by a former Governor of Kwara State, the late Muhammad Lawal. Recently is the Garin Alimi Overhead Bridge, Garage-Offa road, Kwara State, Nigeria among others.

³ Wantong Zhao, "The Root Cause of Claims and Disputes in Construction Industry and Solution Analysis," *PM World Journal* 8, (5), (2019): 1-18; Söderlund, Matias. "Claim management in EPC-Projects: A Case Study of Claim Causes and Claim Management during Plant Installation," (2018).

⁴ Attorney General of the Federation V. Bi-Courtney Limited (CA/A/361a/2012) [2014] NGCA 24 (15 April 2014).

involved. This action was demonstrated in the case of Bi-Cortney wherein parties agreed to resort to Dispute Resolution Board (DRB) to see that the project is fully back to life and completed on time.⁴ Parties to construction disputes are agitating for ADR due to the protraction of their cases many of which have resulted into abandonment of the projects because of time elapse and severity of the relationship among the stakeholders. According to a former Director-General of the Bureau of Public Procurement, Emeka Eze,

More than 18,000 projects were in various stages of abandonment. Unfortunately, this figure does not include projects begun and abandoned by previous state governments. One often cited tragic example is a large-scale water supply project started by a former Governor of Kwara State, the late Muhammed Lawal. The project was designed to combat the chronic water supply problem in Ilorin and neighbouring towns. Nearing completed when his successor took over from him. Amazingly, Dr. Bukola Saraki⁵ (who succeeded Lawal) did not see to the fulfilment this dream as envisaged hence it remains today an epitaph to a governmental culture of waste, dereliction.⁶

More than Five thousand (5,000) projects awarded including the Ilorin-Garin Alimi road project by the Dr. Bukola Saraki's successor is yet to be concluded despite his promise.⁷ This project had occasioned public nuisance on both the road users and the commercial shops along this road. It is beyond doubt that construction contracts are awarded with specificity in relation to time of completion. Hence, when issues arise, there is the need for ADR mechanism to address the problem without necessarily affecting the time of completion. The ADR mechanism as presently constituted under section 19 (d) of the 1999 Constitution of the Federal Republic of Nigeria is insufficient. Unfortunately, majority of construction dispute cases still go to court for hearing and determinations thereby causing the inability of the industry to have the best practices for addressing disputes whenever they occur.⁸

Recently, ADR procedures are considered imperative in the global world. This has been accepted and used by a wide range of courts, tribunals, organizations and stakeholders of construction disputes as tools for overcoming construction impasse, improving the efficiency of difficult negotiations, and achieving durable settlements. It takes different forms as arbitration, mediation, conciliation, negotiation, among others. It is in view of the above that this paper encourages the ADR Centre in Kwara State to be more proactive by sensitizing both the public and the stakeholders in construction industry to take a pragmatic step in the realization of prompt delivery of projects in the State.

Nature of Construction Dispute

Disputes are inescapable in any given construction industry due to the complex nature of the industry itself.⁹ The most common disputes associated with the industry are delay in the supply of material, delay in payments for completed work, improper construction method, delay caused by the subcontractor and

⁴ Former Governor of Kwara State, Nigeria (Between 2003-2011).

⁵ Ayo Olukotun, "Abandoned projects and state decay," *The Daily Punch*, (October 7, 2016); M. A. Tijan, and W. O. Ajagbe, "Professional View on the Causes and Effects of Construction Projects Abandonment in Ibadan Metropolis, Nigeria," *Ethiopian Journal of Environmental Studies and Management* 9, no. 5 (2016): 593-603; E. C. Ubani, and C. N. Ononija, "A Study of Failure and Abandonment of Public Sector Driven Civil Engineering Projects in Nigeria: An Empirical Review," *American Journal of Scientific and Industrial Research* 4, no. 1 (2013): 75-82.

⁶ Hummed Opeyemi, "Governor Abdulfatah Ahmed: Creating a Financially Sustainable Kwara," *Times Premium*, 27th October, 2017.

⁷ Katsoris, Melissa. "Does Nationality Influence Neutrality? The Ethical Standards and Expectations of International Mediators," *Fordham Int'l LJ* 39 (2015): 695; Heather Scheiwe Kulp, "Increasing Referrals to Small Claims Mediation Programs: Models to Improve Access to Justice," *Cardozo J. Conflict Resol.* 14 (2012): 361.

⁸ Kaziimu Alhaji, Mohammed, and Abubakar Danladi Isah, "Causes of Delay in Nigeria Construction Industry," *Interdisciplinary Journal of Contemporary Research in Business*, vol. 4, no. 2, (2012), 785-794.

discrepancies in contract documents between the various parties.¹⁰ There are bound to be disputes because different professionals are always involved in the execution of construction projects although each with distinct and well defined specialized role. Delays can also give rise to suspension of work and loss of productivity, late completion of project, increased time, related costs, third party claims and abandonment or termination of contract.¹¹ Other factors include contractor related problems, owners' financial constraints, high inflation/increased material price; design change by client; defective design; weather conditions; delayed payment on contracts and defective construction work.

When delay occurs in a project, it will have adverse consequences on project objectives in terms of time, cost and quality.¹² Construction-related disputes can consume a lot of time, money and in most cases the expenses involve in pursuing a dispute is far out of proportion to the money actually at stake.¹³ Moreover, the contract form which defines the rights and obligations of parties to construction contract fails to state how dispute should be resolved between them. This necessitates the parties to choose whatever means available for resolution of their disputes. However, in the course of choosing the mode of resolving their dispute, parties should agree and adopt the most effective and suitable dispute resolution mechanism when drafting their contract agreement.¹⁴ The complexity of the industry always result into complex disputes, hence prompt attention is required to get construction disputes resolved through an effective mechanism before they become complex and very expensive to manage.

Emergence of Construction Dispute Resolution

Disputes are inescapable in any given business world in which construction is inclusive. Construction disputes can occur from various stakeholders within the industry and ranges from disputes between clients and contractors, consultants and contractors, contractors and suppliers, contractors and employees, amongst others.¹⁵ It may also be as a result of time and cost overruns, poor execution of work, payment delays to contractors, suppliers, and workers. Litigation and arbitration are the core dispute resolution mechanisms used for construction dispute resolution in Nigeria. However, this is still not adequate because of the frequency of disputes emanating from the industry which ordinarily should have been preventing if adequate legal instruments were in place. Research has revealed that litigation and arbitration need to be supported with other alternative dispute resolution mechanisms for efficient and effective performance of the industry.¹⁶ It has been argued that delay occasioned through court process normally damages business relations of the contracting parties and the risk associated with the liability of the unsuccessful party to reimburse both his own legal costs in addition to what has been accrued to the successful party.¹⁷ Disputes relating to construction projects usually use up enormous amount of funds and time.

However, the world today has shifted from adversarial to interest-based dispute resolution mechanisms with equitable functions in construction industry.¹⁸ This paradigm shift has given rise to demand in amicable mode of settlement in the industry. This is a reflection of what we have today across the world. Over the past decades, construction practitioners have tried to develop and implement the right contractual

¹⁰Mohammed, Kasimu Alhaji, 786.

¹¹Othman, A and Ismail S. "Delay in Government Project Delivery in Kedah", Malaysia. In *Conference Proceedings, International Research Conference on Business, Economics and Social Sciences, IRC, 2014*, 111; Afshari, Hamidreza, Shahrzad Khorravi, Abbas Ghorbanali, Mahdi Borzabadi, and Mahbod Valipour. "Identification of causes of non-excusable delays of construction projects," In *International Conference on E-Business Management and Economics*, 42-46, 2010.

¹²M. Abedi, M. S. Fathi, and M. F. Mohammad, "Major Mitigation Measures for Delays in Construction Projects," (2011), 1-7; Abdul Rahman, Ismail, et al., "Relationship Between Factors of Construction Resources Affecting Project Cost," *Modern Applied Science*, vol. 7, no.1, (2013), 67-75.

¹³F. Firas, Chapter 1 Introduction 1.1, (PhD Thesis, UMP, 2010), 1.

¹⁴Cox, Arthur, "Dispute Resolution in Construction," *Construction Law Briefing*, (April, 2011), 2.

¹⁵Priyanka Sakate, Arun, W. Dhawale, "Dispute Resolution Mechanism in Commercial Construction Project: A Review," *International Journal of Engineering Science & Research Technology*, vol.6, no. 2, (2017):84-88.

¹⁶Wong, Chen Hin. Adjudication: Evolution of New Form of Dispute Resolution in Construction Industry", (Dissertation, UTAR, 2011)

¹⁷Davidson Iriekpen, "Disputes: When ADR Becomes Succour," *This Day Live*, (Monday 29 December, 2014).

¹⁸Mahamid, Ibrahim, and Nabil Dmaidi, "Risks Leading to Cost Overrun in Building Construction from Consultants' Perspective", *Organization, Technology & Management in Construction: An International Journal*, vol. 5, no.2 (2013): 860-873.

method that best approach of their needs and minimizing disputes in construction project.¹⁹ The construction industry has embraced other alternatives to litigation and arbitration in bringing about resolution to all kinds of disputes that are likely to occur in the industry due to time consuming nature and cost implications of these two dispute resolution mechanisms. Sometime, time being spent in pursuing a construction case in court or on arbitration could be better used to complete the litigated project to avoid the high costs of legal charges.²⁰ Globally, the stakeholders in the industry has made tremendous effort to put in place some efficient and adequate mechanisms such as mediation, statutory adjudication, dispute review board, expert determination, neutral evaluation and construction court for resolving disputes owing to the exigencies of the industry.²¹ The changing world today has accounted for the emergence of new types of proceedings for settlement of construction disputes. These proceedings have been developed, and they are proving beneficial in saving time and money to the stakeholders in the construction industry involved. However, this does not mean that the existing mechanisms before the emergence of new ones are obsolete and still not relevant and should be discarded.²²

Dispute Avoidance Mechanisms in the Construction Industry

Dispute avoidance mechanisms were brought in an attempt to salvage the construction industry from collapse because many of the industry stresses are due to inadequacy of the existing resolution mechanisms used for construction disputes.²³ These new mechanisms include mediation, dispute review board, expert determination, neutral evaluation, statutory adjudication and construction court and additional kinds of ADR such as designed for specific cases and subject matters in order to bring disputes to the barest minimal level in the industry.²⁴ The new mechanisms are thus to complement the existing mechanisms in order to control risk and eliminate disputes in the industry.

Kwara State ADR Centre

All the Alternative Dispute Resolution Centres, Kwara State inclusive, in Nigeria were established to resolve certain disputes arising from labour, employment, construction and industrial relations, workplace, among others between parties using the process of mediation.²⁵ Unlike arbitration, which is a process of ADR somewhat similar to trial, ADR process is used for resolving disputes outside of traditional litigation.²⁶ These ADR methods have different emphases that make them suitable for particular types of cases. Some forms of ADR, such as mediation, are intended to put decision-making power back into the parties' own hands.²⁷ Because of this, mediation has been found to be suitable for a wide variety of case types except criminal cases. It has also been found to be suitable for construction dispute resolution world wide. However, as laudable as this mechanism is, the Kwara State ADR Centre is yet to explore the mechanism for addressing the construction disputes cases arising in the state.²⁸ All the scattered abandoned projects in the state alludes to this. The Kwara state ADR Centre stands a better chance when using the mechanism for resolution of construction disputes. Mediation experts who will

¹⁹A. A. Aibinu, and H. A. Odeyinka, "Construction Delays and their Causative Factors in Nigeria," *Journal of Construction Engineering and Management*, ASCE, vol.7, no.132, (2006), 667-677

²⁰Mohd. Akram Bin Shair, Mohamed, "Construction Dispute Avoidance," *A Presented at an Annual Conference 18th Building and Construction Contracts between Traditional Legal Rules and Developed Legal System*, 471-491.

²¹Eunice R. Oddiri, "Alternative Dispute Resolution," *A Paper presented at the Annual Delegates Conference of the Nigerian Bar Association at Le Meridien Hotel - Abuja, between 22nd - 27th August, 2004*.

²²Shin, Joon, "Discussion on the Models of ADR," *Legal Studies Honors Thesis, spring* (2011).

²³Fernando Vieira, Luiz, "Designing a Court-Annexed Mediation Program for Civil Cases in Brazil: Challenges and Opportunities," *Pepp. Disp. Resol. LJ* 15 (2015): 1; Alwi, Abdul Wahab, "Court-Annexed and Judge-led Mediation in Civil Cases: The Malaysian Experience," *Diss. Victoria University*, vol.21, no.4, (2013), 251.

²⁴Joon Shin, "Discussion on the Models of ADR," (Legal Studies Honors Thesis Spring 2011), 3.

²⁵Haseeb Dad, Khan, "Prospects of Mediation as An Alternative Dispute Resolution Mechanism in the UAE Construction Industry," (PhD Diss., The British University, Dubai, 2018); Andrews, Neil, "Mediation in England," *In The Three Paths of Justice*, (2018): 265-288.

²⁶Bukola, Faturoti, "Institutionalised ADR and Access to Justice: The Changing Faces of the Nigerian Judicial System," *Journal of Comparative Law in Africa* 1, no. 1 (2014); Sai On, Cheung, and Tak Wing Yiu, "The interrelationships among Sources, Tactics and Outcomes in Construction Dispute Mediation," *In Construction Dispute Research*, pp. 337-366. Springer, Cham, 2014.

²⁷Pablo, Cortes, "The Promotion of Civil and Commercial Mediation in the UK," *University of Leicester School of Law Research Paper* 15-23 (2015).

²⁸Ademola Jonathan, Bangbosc, "Towards a Suitable Domestic Arbitration Practice in Nigeria," (PhD Thesis, University of Warwick, 2016).

handle such cases are already familiar with all the undesirable elements that are likely to militate against prompt delivery of projects such as inadequate funding/finance, Bankruptcy of the contractor, variation of project scope, incompetent project manager which are other causes of project abandonment. Most of the discovered effects of abandonment of project: disappointment of the populace, low standard of living, wastage of resources, reduction in employment opportunities, decrease in tempo of economic activities, difficulties in attracting foreign loans; reduction in government revenue, reduction in economic activities, wastage of equipment in site and increase in final cost of project.²⁹

Hearing of construction cases by the mediators will reduce cases of construction disputes in the State. This will also enhance the status of the Centre as well as opening more doors to other types of civil cases that require urgent attention. The use of mediation for construction dispute resolution enhances the relationships between the stakeholders of the industry from beginning of the project to the end. Issues that are likely to impede the progress of projects once discovered early enough are resolved through mediation before they escalate into disputes.

The Use of Mediation for Construction Dispute Resolution in UK

The construction industry resorts to the use of mediation as a settlement mechanism for disputes arising from the stakeholders of the industry in order to avoid the expense and lengthy delays occasioned by litigation and arbitration processes in the course of dispute resolution.³⁰ It is an agreement process merely consented to by parties for settlement of their construction disputes. In this agreement, parties resolve to allow an independent third party to make amicable settlement over the dispute that may possibly arise between them. This process had been in UK since almost twenty years ago and not new in the construction industry. It is an alternative to litigation process. Judging from the statistics in the last few years, there has been an increase in the usage of this mechanism for resolution of construction disputes in UK with a sharp decrease in litigated construction cases. The Civil Procedural Rules (CPR) and Construction and Engineering Pre-action Protocol encourage litigants to contemplate and use mediation as much as possible where suitable in their cases.³¹ For instance, of the one hundred and twenty-six (126) estimated construction mediations occurring every year, about eighty-eight (88) are settled.³² Mediation has really assisted parties to settle their disputes through negotiation. As mediation is accorded with a prominent role by the courts, this raises its status and those who practise as mediators are seeking to professionalise their work.³³

A recent survey of mediation in the Technology and Construction Court (TCC) suggests that more mediation is taking place than had been appreciated. The *TCC Court Guide* states that: Legal representatives in all TCC cases should ensure that their clients are fully aware of the benefits of ADR and that the use of ADR has been carefully considered prior to the first Court Management Meeting (CMM).³⁴ Mediation is such a cheap and quick process that, if mediation were available, the parties would not have litigated or arbitrated a number of these matters in any event. Nigerian courts should also educate lawyers to encourage their clients to know the benefits in mediation with special regards to construction cases in order to reduce the number of abandoned cases of projects to barest minimum.

The Impact of Mediation in construction industry

Mediation has assisted the construction industry in the resolution of disputes which ordinarily ought to have gone through rigorous and delay occasioned by litigation process. Many disputes have been resolved

²⁹Nwankezie, Okey. Walpole Nwagum, "A Study of Causes of Uncompleted / Abandoned Building Projects and Its Effect on Real Property in Uyo Metropolis, Nigeria," *Architecture Research*, 9 (2), (2019): 45-5

³⁰Neil, Andrew, "Mediation in England," In *The Three Paths of Justice*, (2018): 265-288. Springer, Cham; Catherine, McGuinness, "Alternative Dispute Resolution-Mediation and Conciliation," (2016); Pablo, Cortes, "The Promotion of Civil and Commercial

Mediation in the UK," *University of Leicester School of Law Research Paper* 15-23 (2015); Masood, Ahmed, "Implied compulsory mediation," *Civil Justice Quarterly* 31, no. 2 (2012): 151.

³¹Jim Mason, "How might the Adversarial Imperative be Effectively Tempered in Mediation?" *Legal Ethics* 15.1 (2012): 111-122; Jim Mason, "Contracting in Good Faith-Giving the Parties What They Want," *Construction Law Journal*, 23(6), 436-443.

³²Haseeb Dad, Khan, "Prospects of Mediation as An Alternative Dispute Resolution Mechanism in the UAE Construction Industry," (PhD Diss., The British University in Dubai Build., 2018).

³³P. Brooker, and Wilkinson, S. "Construction Mediation," *An International Review: Spoon Press an Imprint of Taylor and Francis*, (London and New York, NY, 2010): 1-25.

³⁴See Section 7.1.3 of the *TCC Guide*, 1996 (2005 revised 2007).

amicably through mediation process thereby enabling the parties to sustain their business relationships. Report revealed that referrals for arbitration fell in 2011 while disputes handled through mediation continued to rise. CEDR's two yearly survey showed an increase from 6,500 to 8,000 in disputes resolved through mediation.³⁵ Its efficacy and effectiveness has impacted so much on construction disputes that people prefer it over and above litigation and arbitration. There is agitation that mediation should be given legal backing to enable it rank with other dispute resolution mechanisms because of its efficacy. Parties' confidentiality is assured in mediation than in litigation.

The case of *GF HSA v OMFS Company Ltd* shed more light on efficacy in the use of mediation.³⁶ In the present case, a serious and carefully formulated written invitation by the Claimant's solicitor to participate in mediation was met with complete silence by the Defendant. The offer was repeated just over three months later and despite promising a full response to the letter in which it was contained, the defendant's solicitors thereafter made no reply or comment about it at all. After the case was compromised, save as to costs, by the last minute acceptance by the Claimant of the Defendant's Pt. 36 offer, the trial judge Mr. Recorder Furst QC, sitting as a deputy judge of the Queen's Bench Division in the Technology and Construction Court, acceded in part to the Claimant's application for a costs sanction on the ground that the Defendant had unreasonably refused to mediate, by depriving the Defendant of the costs to which it would otherwise have been entitled under Pt 36, but he declined to take the further step of making the Defendant pay the Claimant's costs incurred during the same period. The judge decided first that the Defendant's silence amounted to a refusal and secondly, applying the *Halsey* guidelines, that its refusal had been unreasonable.³⁷ Courts now encourage parties to use mediation before opening their cases in litigation.³⁸ The cost savings associated to successful mediations were substantial and this has motivated parties. The cost savings were generally proportional to the cost of the mediation itself.³⁹ This may be an indication that high value claims spend more money on the mediation itself, presumably because they realise that the potential savings resulting from the mediation will be higher. This survey therefore supports and adds to the evidence already gathered that mediation will make more a significant impact on commercial cases including construction disputes.

Challenges facing parties from utilizing ADR in construction cases in Nigeria

One of the major challenges facing parties to construction disputes is that there is yet to have adequate mediation experts in construction disputes resolution in Nigeria.⁴⁰ Most of the mediators in the ADR

³⁵Richard Nunnington and Wayne Evans, "Dispute Resolution in London and the UK," *Professional Services Series*, December (2012); S. K. T. Yiu, & Cheung, S. O. "Process Driven Construction Mediation Outcomes," (in Queensland University of Technology Research Week International Conference, QUT Research Week 2005); E. K. Umuadi, "The Efficacy of Mediation and Negotiation Methods For Dispute Resolution In Delta State," *Tech Journal of Policy and Strategic Studies*, vol.1, no. 2, (2011):64-73; N. Ntuli, "Africa: Alternative Dispute Resolution in a Comparative Perspective," *Conflict Studies Quarterly*, vol.22, (2018); P. D. Galloway, "Engineering a Successful Negotiation," *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 3(1), (2012):6-12; A. Harrington, "Building on Mediation as a Foundation," *The Scotsman: Scottish Legal Review Edition*, vol.12, (2007).

³⁶Ellen Waldman, and Lolu Akin Ojebisi, "Mediators and Substantive Justice: A View from Rawls' Original Position," *Ohio St. J. on Disp. Resol.* 30 (2014): 391.

Omer, Shapira, "Conceptions and Perceptions of Fairness in Mediation," *S. Tex. L. Rev.* 54 (2012): 281; N. Gould, "The Mediation of Construction Disputes: Recent Research," *Disp. Resol. Int'l*, vol. 3, no. (2009):185, 185.

³⁷*Halsey v Milton Keynes General NHS Trust* [2004] EWCA Civ 576, [2004] 4 All ER 920, [2004] 1 WLR 3002; S. Prince, "Institutionalising Mediation? An Evaluation of the Exeter Court Small Claims Mediation Pilot 2007," M. Koet, & T. B. Salomone, "From Litigation to Mediation: Using Advocacy Skills for Success in Mandatory or Court-Connected Mediation," *Sask. L. Rev.*, vol. 64, (2001): 57; S. Prince, "Mandatory Mediation: The Ontario Experience," *Civil Justice Quarterly*, vol. 26, (2007): 79-95.

³⁸Nicholas Gould et al., "Mediating Construction Disputes: An Evaluation of Existing Practice," *King's College London: Centre of Construction Law and Dispute Resolution*, 25; I. Papolizio, "The Ideologies of Mediation between Theory and Practice," in *International Conference Law and Society in the 21st Century's Humboldt University, Berlin, Germany*, (25-28 July, 2007).

³⁹M. R. Sandstrom, & D. N. Goldswain, (Eds.), "Negotiating and Structuring International Commercial Transactions," *American Bar Assoc.* (2003); K. Reichert, "Confidentiality in International Mediation," *Dispute Resolution Journal*, vol. 59, no. 4, (2004):60; J. Monjjan, "Efforts Made to Increase the Use of Mediation," *PAC LJ*, vol. 28, (1997):818-1997.

⁴⁰Ntuli, Nokoahanya, "Alternative Dispute Resolution in a Comparative Perspective," *Conflict Studies Quarterly*, no. 22, (2018): 36-61; A. A. Elzany, M. A. Mohamedien, H. M. Ibrahim, and MK Abdel Fattah, "An Expert System to Manage Dispute Resolution in Construction Projects in Egypt," *Ain Shams Engineering Journal*, vol. 7, no. 1 (2016): 57-71, vol.16, (2011).

Centres deal with land matters, matrimonial dispute resolution, chieftaincy title among others.⁴¹ There is an urgent need for mediators who are specialized in construction dispute resolution in the ADR Centres in Nigeria. This will reduce the docket cases of construction disputes on the judges' tables. Many projects were abandoned as a result of protraction of construction dispute cases in Courts and due to lack of practical experience in construction by many of the judges.⁴² There is need for training and retraining of personnel such as lawyers, judges, construction stakeholders who are handling construction dispute cases for easy access to justice and speedy judgment delivery of construction disputes given the nature of construction projects. This will also facilitate the prompt delivery of projects and foster the relationship among the stakeholders in the construction industry in Nigeria.

Conclusion

The use of mediation mechanism cannot be underscored in the resolution of construction disputes given the time bound and well as the life span of the projects. The process is cost effective, speedy and friendly. It strengthens the relationships among the stakeholders and takes the people back to site for completion of projects unlike the use of litigation. Hence, the paper suggests that the ADR Centre in Kwara state should be more proactive and encourage the hearing and determination of construction dispute resolution like ADR Centre in Lagos state among others.

Recommendations

1. It is in light of the above, the paper recommends to Kwara State ADR Centre to explore its establishment to introduce mediation process for cases of construction disputes occurring in the state for better and speedy resolution.
2. Mediation process is cost effective, time-saving and more friendly than litigation, hence, the paper recommends same for construction dispute resolution.
3. There is need to inform members of construction industries about the use of mediation for speedy construction dispute resolution.
4. The Centres should recruit mediation experts for speedy resolution of construction disputes.
5. There is an urgent need for training and retraining of personnel such as lawyers, judges and stakeholders in construction industry who will be handling cases of construction disputes in Nigeria for easy access to justice and prompt judgment delivery.

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