

THE  
MULTI-DOOR COURT HOUSE CONCEPT AND JUSTICE DELIVERY  
IN NIGERIA<sup>1</sup>

**By**  
**Hon Justice Roli Daibo Harriman<sup>2</sup> LLM**

Permit me to observe protocols already established at this event.

I bring you greetings from my Chief Judge, the Hon Justice Marshall Mukoro, Chief Judge of Delta State and from the The Team at the Delta State Multidoor Court house where the Hon Justice Obi and I are members of the Governing Council. I have also been asked by the Association of Multidoor Court houses in Nigeria to convey their best wishes to the Chief Judge and the Team at the Edo State Multidoor Courthouse.

I thank the Chief Judge and the organising committee for inviting me to give this inaugural lecture.

I must congratulate the outgoing Chief Judge and the incoming Chief Judge of Edo State for this laudable initiative to set up a court connected Multi door Courthouse in Edo State. I also commend the judges and supporting staff of the judiciary who have made today possible. I can attest to the fact that it is not an easy task.

I recall that sometime in 2004 I had had the privilege of recommending and proposing to the Chief Judge of Edo State at that time to begin the process of setting up a Multidoor Court house in Edo State. At that time, I was the chairperson of the Multidoor Replication Committee of the Negotiation and Conflict Management Group. So I am particularly gladdened that 14 years after, my prayer has been granted as prayed. I will not bore you by telling the story of how the Delta State Multidoor Courthouse (DSMDC) came to being. I can only say, that it took total commitment of my humble self and the then Chief Judge, the Honourable Justice Z A Smith (Rtd) to make it possible in spite of paucity of funds. Today, not only is the DSMDC fully operational, we have registries in

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<sup>1</sup> Keynote address at the Inauguration of the Edo State Multidoor courthouse 20 January 2017

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6 local government areas and the Law to back our operations up. The registries were opened to bring service.

nearer to the citizens. I can also say with pride that the volume of court referred and walk-in matters to these registries are increasing monthly.

Whilst I call on the Edo State House of Assembly and the Executive to, as a matter of urgency, pass a law setting up the Multidoor Courthouse in Edo State, I wish to state that the concept of a Multidoor courthouse does not require the passing of such a law. It is within the powers of the Chief Judge under S274 of the Constitution of the Federal Republic of Nigeria to make practice directions to enable a free flow of cases from the courts for settlement at the Multidoor Courthouse.

The Multidoor courthouse is a concept first brought to light in 1976 by Professor Frank E. A. Sander, Professor of Law Emeritus at the Harvard Law School. He sought to expand on a lecture earlier delivered in 1906 by Professor Roscoe Pound about the problems associated with delayed justice delivery. To solve this problem, Sander proposed the concept of the Multidoor courthouse where citizens could have access to various alternative ways of resolving their dispute. Sander's suggestion has been taken seriously around the world and The Lagos Multi-Door Courthouse (LMDC); the first Court connected Alternative Dispute Resolution Centre in Africa, opened its "door" on June 11 2002. Abuja Multi-Door Courthouse followed in 2003. Many other states have thereafter established Multidoor courthouses; there were up to 15 at the last count. The Association of Multidoor Courthouses in Nigeria is also working hard to encourage the establishment of more of these. Though the concept of the Multidoor Courthouse is relatively new in Nigeria, many countries including the United Kingdom, Canada and United States have long embraced the concept.

Multi-Door Courthouses are court connected ADR centres which help parties settle disputes through mediation and other types of ADR mechanisms, including Mediation, Arbitration, Early Neutral Evaluation other Hybrid processes. All types of cases are resolved Conciliation and especially through Mediation. These include loan default defamation mild Custody/maintenance,

of Estates, negligence, Administration of Estates, Banking, employment, land, breach of contract and landlord and tenant conflicts. "Multi-Door" envisions one courthouse with multiple dispute resolution doors through which cases are compartmentalised appropriately.

The multi-door courthouse provides citizens with easy access to justice, reduce delay in justice delivery, and provide links to related services, making more options available through which disputes can be resolved. The use of ADR at the MDC assists parties to reach agreements that meet their interests, preserve relationships, and save time and money.

Some of the benefits of a Multi- Door Courthouse are:

The ADR services provided are accepted due to the involvement and oversight of the judiciary;

A fuller range of choice or 'doors' for resolving disputes are made available to litigants; these include mediation, arbitration and early neutral evaluation

MDCs are a means of decongesting court dockets allowing judicial officers more time to deal with other cases effectively thereby increasing productivity and improving access to justice for litigants;

MDCs provide flexibility in both avoiding and returning to litigation;

Parties are given the opportunity to arrive at solutions which are mutually and commercially acceptable;

Agreements can be recorded as judgments of the court and enforced through formal court mechanisms.

The Multi courthouse is a one stop place where the dispute resolution officer, if required, after assessing the controversy, recommends the best suitable door through which the parties can access a resolution of the conflict. In adopting the Multidoor courthouse, a court connected ADR as part of the justice delivery system in the states that have them, economic access to justice by the ordinary man and businessmen alike has been enhanced.

The essence of Multi-Door Courthouse Concept is to fully integrate the alternative dispute resolution into the justice delivery system to compliment litigation. Articulating the very essence of the Multi-Door Courthouse Concept, Professor Sander warned;

“The thing about Multi-Door Courthouse is that it is a simple idea, but not simple to execute, because to decide which case ought to go to what door is a not simple task.”<sup>3</sup>

In any case, we have found that mediation is useful in cases where the parties have an on-going relationship. Cases like banker/customer, landlord/tenant, inheritance, family matters, community disputes, custody and maintenance are amenable to mediation.

The following quote by Peter Phillips quoted in Kehinde Aina's book, Dispute Resolution 2012, says it all with regard to modern business trends.

“Not only do court battles represent unproductive time and efforts; their results are legal rather than businesslike. It might well be that the best solution to a dispute between a dam builder and a hydroelectric turbine manufacturer would be a change in contract specifications and a promise of future work. But the law does not provide for businesslike solution- the law only looks backwards to determine what happened in the past. Business, on the other hand, looks forward to what opportunities lay ahead. It is a poor fit”

The objectives of an MDC should be to:

- (a) Enhance access to justice by providing alternative mechanisms to supplement litigation in the resolution of disputes:
- (b) Minimize citizen frustration and delays in justice delivery by providing a standard legal framework for fair and efficient settlement of disputes through Alternative Dispute Resolution (ADR):
- (c) Serve as the focal point for the promotion of Alternative Dispute Resolution in the State: and

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<sup>3</sup> Being part of speech on Multidoor Courthouse Concept: Access to Justice, delivered by his lordship Theresa Obot at the 2013 NBA Conference

(d) Promote the growth and effective functioning of the justice delivery system through Alternative Dispute Resolution methods.

The main functions of an MDC include:

(1) Applying mediation, conciliation, negotiation arbitration neutral evaluation and any other ADR mechanisms in the resolution of such disputes as may from time to time be referred to it, from the courts, Private Persons, Corporations, Public institutions and dispute resolution organizations.

(2) Encouraging disputing parties to appear before it for the resolution of their disputes.

(3) Assisting parties in the resolution of their disputes and act as administrators in the conduct of ADR proceeding locally or internationally.

(4) Publicizing its service by informing and sensitizing the public about its facilities.

(5) Rendering assistance in the conduct of ad-hoc arbitration or mediation proceedings.

(6) Encouraging disputing parties whose matters are already listed before the court for hearing to appear before it to explore settlement options.

(7) Maintaining registers of suitably qualified persons to act as mediators, arbitrators or natural evaluators.

(8) Promote or undertake projects or other activities including but not limited to the settlement week, which in the opinion of the Council will further assist in decongesting the courts and help to achieve the purpose for which it was established.

With the establishment of the Edo State Multidoor Courthouse, the judicial service now has a mechanism for satisfying all aspects of dispute resolution. At the opening of the Abuja Multidoor Courthouse in 2003, the Chief Judge of the High Court of the Federal Capital Territory noted that "our dream is to build a comprehensive justice delivery system, a system where every dispute will have a mechanism suited to its resolution. A system flexible enough to cater for the emerging challenges of the Internet yet enough to imbue users with confidence in its efficacy"

There is no doubt that now is the time for a functional MDC in Edo State Therefore the setting up of the ESMDC is the right way to go. Not only

because, it is the reigning thing to do in Nigeria to embrace this relatively new international dimension to justice delivery, but also that this courthouse is coming at a time when there has been escalation of conflict within communities, between business men, banks and their customers and between relatives. The court system, i.e. litigation, has over the years tried to do its best to deliver justice but as the statistics of cases that go on appeal show, conflicts are difficult to resolve in the courtroom to the satisfaction of both parties. The victorious party may likely be subjected to another 10 years of appeal to the Supreme Court or have his judgment frustrated by series of applications brought by the losing party. As his lordship, the Hon Justice Chukwudifo Oputa JSC Rtd said;

The administration of justice in our court suffers from two major constrains, namely delay and expense. If it takes 7-10 years to decide a case, a prospective litigant, may decide not to go to court at all. But the one thing that frightens litigants from the court the ordinate expense incurred with the result that a very large proportion of our countrymen are, as it were priced out of the legal systems<sup>4</sup>.

Some of the advantages, users will get from the multi door court house are win-win settlements, confidentiality, Speedy resolutions, Parties choice of arbiter. Maintenance of relationships post settlement, Promotion of better co-existence and harmony in communities, Public satisfaction with the justice system, Resolutions suitable to parties' needs, Increase in voluntary compliance with settlements, Increase in foreign investment, Reduction in case load for judges, Easier access to justice for all, Huge savings that would arise from non-friendly litigation process; Equal accessibility to otherwise irrespective of status, religion or tribe; Better management of disputes whether boardroom, shareholders', labour, client/customer relationship etc. It has also being argued that ADR is the best form of pre-election disputes resolution.

It is a well-known fact that delay in justice delivery is caused by court congestions, unending applications for adjournments, inefficiency of court staff and many other extraneous reasons. These uncertainties have a negative direct

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<sup>4</sup> Referred to in the chapter on An overview of the modus operandi of the Multidoor courthouses by Hon Justice O O Goodluck in the book: Alternative Dispute Resolution and some contemporary Issues, legal essays in honour of Hon Justice Ibrahim Tanko Muhammad CON, 2010

and indirect effect on local and international investments Businessmen would prefer a clear predictable system that would manage potential disputes. Delay in justice delivery can be best appreciated in the following study as quoted by Prof Yemi Osinbajo SAN at the 4<sup>th</sup> NCMG African ADR Summit in November 2009:

The National average time taken to conclude cases; without the intervention of interlocutory applications is presented below;

LAND CASES

High Court	6.2 years
Court of Appeal	4 years
Supreme Court	6 years
<b>Total</b>	<b>16.2 years</b>

CIVIL CASES

High Court	3.4 years
Court of Appeal	2.5 years
Supreme Court	4.5 years
<b>Total</b>	<b>10.4 years</b>

CRIMINAL CASES

High Court	1.5 years
Court of Appeal	3.5 years
Supreme Court	2.0 years
<b>Total</b>	<b>7 years</b>

The above statistics show a bleak future for commerce and the reduction of crime in Nigeria.

Because of the benefits of ADR, the statutes creating some government institutions also made provision for the setting up of panels to deal with conflicts that may arise within those institutions. Examples of these are the National Health Insurance scheme Act Cap N42 LFN 2004, which makes provision for the setting up of Arbitration Boards in all the states of the federation and the Capital Territory, the Petroleum Act, Cap. P10, LFN 2004, the Public Enterprises (Privatisation and Commercialisation) Act Cap P38, LFN 2004, Nigerian Communications Commission and many others. These special ADR panels will go a long way to ease the pressure on the regular courts in resolving conflicts. The NBA has inaugurated an ADR committee in its Section

on Business Law and the UN Charter encourages negotiation, conciliation and other ADR processes<sup>5</sup>.

Apart from the above mentioned developments, ADR is recognised as a form of dispute resolution by the Constitution which provides that; "the foreign policy objectives shall be respect for international law and treaty objectives as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication<sup>6</sup>". The Arbitration and Conciliation Act also provides the law and rules governing the practice of Arbitration in Nigeria<sup>7</sup>. ADR has long since been recognised in Matrimonial Causes<sup>8</sup>. For labour disputes, the Trade Disputes Act also provides for exploration of ADR<sup>9</sup>.

I must hasten to say that there is no shortage of laws supporting settlement out of court. Court laws and Rules of court of many states in the Federation make provision for resorting to alternative means of resolving disputes<sup>10</sup>. For example order 25 of the Edo State Civil Procedure Rules 2012 provides that

(1) When a matter comes before the Court for the first time, the Judge shall circumstances where it is appropriate, grant to the parties, time, not more than thirty days within which parties may explore possibilities for settlement of the dispute.

(2) Where parties fail to settle within thirty days or such other period as the court may grant, the case shall without more, proceed to trial.

The High Court laws and Magistrate Court Laws contain provisions empowering the courts to promote reconciliation in civil and criminal matters.

With the aforementioned provisions courts can and should adjourn matters to enable the parties explore settlement. The Multi door Courthouse takes the matter up from there and any settlement reached is filed in that court as consent judgment.

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<sup>5</sup> Article 33

<sup>6</sup> *Section 19(d)* Constitution of the Federal Republic of Nigeria 1999

<sup>7</sup> Cap A18, Laws of the Federation of Nigeria 2004

<sup>8</sup> S11, Matrimonial causes Act, Cap. M7, Laws of the Federation 2004

<sup>9</sup> Trade Disputes Act, Cap T8, LFN 2004

<sup>10</sup> S Lagos High court law; order 25 r2c Lagos high court civil procedure rules 2004; O35 and O36 of Magistrates Court Rules of Lagos State; order 19 Plateau State High Court civil Procedure Rules; Order 25 High Court of Ogun State Civil Procedure Rules 2008 etc.



There is therefore no better time in the history of this state to popularise the concept of the MDC. The DMDC is a welcome institution because the Traditional rulers and community leaders want it, The common man wants it, The politician prefers it, The businessman needs it, The oil magnate demands it, The landlord requires it, Parties and children of broken marriages prefer it, The younger generation of lawyers embrace it.

In spite of the developments earlier mentioned, ADR still faces some challenges some of which are:

Attitude of the Bar/Ignorance of legal practitioners/legal advisers/in-house counsel This, I believe has been the main obstacle to the increased use of ADR options for settlement of disputes. The Legal Practitioners' **Rules of Professional Conduct 2007** provide that

15 (3) in his representation of his client, a lawyer shall not

(d) Fail or neglect to inform his client of the option of resorting to alternative dispute resolution mechanisms before resorting to or continuing litigation on behalf of his client.

I do not need to stress the punishment for legal practitioners who breach these rules. See Rule 55. Legal practitioners, on the basis of the above and not to run foul of their rules of professional ethics ought to seize the opportunity to institute matters at the MDC and if that fails before they resort to litigation. This will be the greatest source of walk-in matters at the MDC. At the court connected Multidoor courthouse, the legal practitioner is required to give due consideration and support to suggestions, orders and directives from the court for an amicable settlement or referral of on going matters to ADR. In the same vein because of lack of awareness or pride, in house counsel or legal advisers find it difficult to advise their companies on the use of ADR. They neglect to insert ADR clauses in agreements, which should ordinarily trigger the ADR process. They neglect to insist on ADR options when consulting their external solicitors. It has been shown that companies benefit more in using ADR options than straight litigation<sup>11</sup>.

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<sup>11</sup> See Harvard Business Law Review on Negotiation and Conflict Resolution 2000. Direct med v Using counsel for settlement v Litigation

-Lack of cooperation during ADR sessions. Lawyers have also been known to delay or frustrate ADR proceedings. Because of their training, lawyers are usually in a combative mode and still see the ADR process as an adversarial one. They ignore their client's interest and put up objections and arguments during ADR proceedings, bring frivolous applications to delay or prevent commencement of arbitration tribunals and generally frustrate the process thereby delaying or denying the quick resolution of their client's dispute. They insist on their client's perceived rights instead of their interests As Norman Brand said in his book "Learning To Use The Mediation Process- A Guide for Lawyers' "The Lawyer must prepare the client for mediation and help the mediator bring the client's dispute to a rapid, successful resolution. It is a truism among mediators that nothing kills the prospects for resolution more surely than a lawyer who doesn't understand the process<sup>12</sup>. The Nigerian Law School should be given kudos for introducing intensive skill-based practical classes on Interviewing skills and use of ADR options in its new curriculum.

-Fear of loss of income by legal practitioners. This fear is unfounded because lawyers have a role to play in ADR processes. At the consultation stage, they advise their clients on the different ADR options available to enable the client make an informed decision. They prepare and file papers at the MDC. They make submissions on behalf of their client in e.g Arbitration hearings. They play the role of adviser and negotiator at e.g Mediation sessions. They draft settlement agreements. All of these works has to be paid for I have heard lawyers say they prefer to accept N200,000 to assist in negotiation at one mediation sitting than N1m to attend court 10 times a year for 10 years.

-Public awareness. This challenge can be drastically reduced if legal practitioners can educate their clients on the availability of ADR. ADR practitioners and ADR centres should also join in creating awareness to the public on this issue. Disputants do not know how to access ADR with or without a lawyer. The ADR centres including the

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<sup>12</sup> Norman Brand, 2000 Learning To use The Mediation Process- A Guide for Lawyers

Multidoor courthouse need to engage in more publicity so that members of the public can easily access them.

-Boldness of ADR practitioners to intervene in conflicts. Since there is insufficient awareness and understanding of ADR, it will be useful if ADR practitioners summon the courage to intervene in conflicts and offer their services.

-Perceived inability to enforce ADR settlements especially mediation. Well, mediation agreements are enforceable once they have been made judgement of court. This is one of the major attractions of the MDC. At the Multi door courthouse, settlement agreements, which are duly signed by the parties, are enforceable as a contract between the , parties and when an ADR judge further endorses such agreements, it is deemed to be enforceable as a judgment of the High Court<sup>13</sup>. Perceived challenge to jurisdiction by judicial officers and possibility of reduced assessment by NJC. These fears are not unjustified. However, there is hope on the horizon. A few years ago, at the swearing in of judges of the FCT High Court, the Chief Justice of Nigeria stated

∴...in the light of this, it is a cardinal objective of my tenure as the Chief Justice of Nigeria and Chairman of the National Judicial Council (NJC) to pursue actively the full adoption and utilization of Alternative Dispute Resolution (ADR) processes in the various jurisdictions of our Courts... I must emphasise the urgent need to place greater emphasis on the use of ADR. The benefits of ADR mechanisms such as Arbitration, Mediation and Conciliation cannot be over emphasised. Although you are all aware of these benefits nonetheless, it bears highlighting that ADR can reduce the time and cost of justice, which simultaneously reduces the burden on litigants and case backlog. A practical example of this can be found at the US Federal Courts, where the 2003 Case Load Report states that out of the over 250,000 cases filed, only 4, 206 or 1.7 percent were decided through the trial process.

My Lords, invited guests, distinguished ladies and gentlemen, to underline the criticality of the dire case backlog satiation and to demonstrate my sincerity of purpose, **I HAVE DECIDED THAT MATTERS DISPOSED OF UTILIZING ADR PROCESSES WILL**

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<sup>13</sup> See S19 Lagos Multidoor Courthouse Law

**NOW BE COUNTED AS PART OF JUDICIAL OFFICER'S PEREORMANCE IN THE PERFORMANCE EVALUATION QUARTERLY RETURNS TO THE NJC.**

It is my earnest desire and hope that this incentive will galvanise our judges to employ legitimate non-adjudicatory measures and ultimately increase our case disposal rate...ø

*Emphasis mine*

Before then, on the 30th September 2013, the Hon Justice Aloma Maryam Mukhtar GCON gave under her hand the National Judicial Policy. S6 (g) and 11 of that policy states

6 (a) in order to enhance Access to Justice, more courts should be built especially at the lower level, so that justice is brought to the doorsteps of all the citizenry

(b)

(c)

(d)

(e)

(f)

(g) Alternative Dispute Resolution (ADR) should be adopted by all courts.

S11

(a) All judiciaries within the Federal Republic of Nigeria should ensure that all courts in their jurisdictions further the overriding objective of justice by actively managing cases

(b) A judicial officer shall always encourage parties before the court to explore Alternative Dispute Resolution (ADR) procedure where appropriate.

The judiciary should be happy to note that the National Judicial Council, at its meeting on May 2016 discussed the possibility of incorporating ADR in assessment of judicial officers. Once such a policy is issued, it will go a long way in ensuring speedy justice delivery.

The High Court to which the MDC is connected has responsibility to control and manage cases effectively and issue orders which would encourage the adoption of ADR methods of dispute resolution sometimes, it also mandates parties to seek ADR especially if one of the parties desires it.

As Kehinde Aina (the mid-wife of the MDC Concept in Nigeria) said

“The Multidoor Concept is a child of necessity, well-conceived and delivered at due season to the global justice system”

From my submissions so far I hope I have been able to convince you that the Legislature has a role to play in justice delivery by passing the Edo State Multidoor Courthouse Law; the judiciary has a role to play by encouraging and where necessary ordering parties to use ADR mechanisms in resolving their disputes, the lawyers have a role to play by abiding by their Rules of Professional Conduct by educating clients on the options available and placing the interest of the client before any other consideration.

My lords, ladies and gentlemen, there is no doubt in my mind that NOW is the time and place for the MDC to thrive in this state to provide an acceptable platform for resolution of disputes supported by the enforcement machinery of the judiciary.

I thank you for listening