

ALTERNATIVE DISPUTE RESOLUTION (ADR) STRATEGIES FOR TERTIARY INSTITUTIONS ADMINISTRATIVE EFFECTIVENESS IN NIGERIA

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Abstract

This position paper focused on the alternative dispute resolution (ADR) strategies and administrative effectiveness of tertiary institutions in Nigeria. Institutional heads must perceive conflict management as a medium through which problems can be aired and new objectives and goals can be set. Without the necessary dispute management skills, many institutional heads find themselves in unfavourable conditions which hamper pedagogical practice. The idea of ADR is about the search for an application of non-conventional peaceful means of settling disputes and resolving conflict. It involves mediation, negotiation, conciliation and arbitration to achieve administrative effectiveness. The paper concludes that ADR creates a humane, win-win tone in conflict resolution. It is suggested that an ADR committee should be set up in tertiary institutions to institutionalise the democratically-oriented principles and practice of mediation, negotiation, conciliation and arbitration in school members thereby fostering a convivial atmosphere in higher learning institutions for administrative effectiveness.

Keywords: Alternative-Dispute-Resolution (ADR), Administrative effectiveness, school heads

Introduction

It is a known fact that conflict is an inherent, inevitable and reoccurring element in socio-human relations. Conflict may be defined as a clash of needs within the individual or between two or more people where the needs, objectives, values, interests and perceptions of one individual or group do not agree with those of another individual or group (Bala 2022). Generally, conflict can have beneficial, or dysfunctional consequences. Litigation, as a normative approach to conflict resolution is reputed to have the major merit of using societal and institutional, coercive legitimacy to resolve conflict among disputing parties in a coercive manner. Alternative Dispute Resolution (ADR) connotes the ‘‘alternative’’, ‘‘appropriate’’, amenable approach proactively to conflict prevention, containment and resolution. ADR comprises various approaches for resolving disputes in a non-confrontational way ranging from negotiation through mediation and conciliation to arbitration as modes of conflict resolution. The smooth-running of any school’s system tends to be dependent to a large extent on the adaptation of ADR strategies, by the school head in managing conflict. No matter the administrative vision and the stakeholders’ passion for the achievement of the goals in any academic setting, there is bound to be an obstruction or delay of some form if conflict is not properly managed.

Hauwa (2020) listed the causes of conflict in higher institutions of learning to include misunderstanding, personality clashes, lack of cooperation, frustration and irritability, substandard performance, value and goal differences, violation of rules and policies, competition for scarce resources, struggle for authority and power, differences over workload among others. Considering the above, there is bound to be a tendency to aggression, greed, selfishness, destruction, and bias. Conflict gives room for stress, reduces performance, increases wastage, multiplies grievances, and encourages poor attitude to work and work stoppage among others.

Conflict in academic settings like high institutions of learning is a daily occurrence because of the likelihood of the absence of consensus among administrators, academic and non-academic staff members and students concerning rules governing the general running of the institutions. This may account for the absence of a convivial atmosphere for the actualization of administrative effectiveness in tertiary institutions which is sometimes experienced. The above rubs off negatively on administrative effectiveness in the said schools. Administrative effectiveness is the positive response to administrative actions and inactions to accomplish stated goals (Aliyu, 2019). Effective administration is inevitable amid scarce resources and in the quest to meet the targets of higher institutions of learning.

The administrative functions of the higher institution heads are said to be decision-making, planning, organising, communication, influencing, coordinating and evaluation (Bala, 2022). If made to work free of conflict, administrative effectiveness could be guaranteed. Given the above example, the school head is in constant interaction with conflict-inducing agents. Hence, conflict becomes a raw material in the hands of the school heads that must be processed (managed) to bring about the desired product (or goal) of peace. Since conflict is inevitable in higher institutions of learning, administrators must prepare to deal with it, not necessarily from the point of view of elimination, force, domination or competition, but rather to derive the greatest possible benefits therefore in a win-win style (Dennis, 2020). Apart from the conventional conflict management strategies like avoidance, accommodation, compromise, collaboration and competition. The advantages of ADR remain an appropriate option to administrators in resolving conflict. To manage conflict competently, the causes, benefits and dimensions of conflict must be established.

Causes of Conflict in Higher Institutions of Learning in Nigeria

Five causes of conflict in tertiary institutions have been noted by Zainab (2021) she further explains that causes of conflicts were born out of generation gap issues, prejudice, authoritarian rule, anti-authority, stance of subordinates and organisational structural factors. Nana (2018) identified causes of conflict in Nigerian tertiary institutions, including ineffective communication between Management and students, inadequate school facilities, harsh and stringent school rules, cultism, frustration, and inability to meet personal needs, etc. The courses of school-based conflict may be traceable to differences in people's backgrounds, interests; and differences growing out of power structure.

Relevance of Conflict Resolutions in Nigerian Tertiary Institutions

The need to apply ADR to conflict resolution in Nigerian tertiary institutions is important as according to Ayuba (2022), conflict resolution produces better ideas about handling disputes in the higher institutions of learning. The availability of tension stimulates interest and productivity. It provides opportunities for leaders to test their competence. The new approach to problems or challenges would surface. To improve upon the manner of conflict resolution in higher institutes of learning in Nigeria, the schools need to largely have to do with;

Transparency; transparency is quite relevant in the process of resolving disputes in tertiary institutions openness, fairness, trustworthiness and honesty in the whole process of resolving conflict are desirable. These would surely do away with tension and suspicious that largely stand as a stumbling block to the processes of addressing disputes in the higher institutions of learning in addition the institutions should be consistent with fairness in dealing with the conflicting parties

Clear guidelines on modalities; To spelt out clear guidelines without ambiguities is important in the whole process of dispute resolution in the modernities or the interpretation. It was suggested by Ayuba (2022) that institutions of learning remove policies that have an element of ambiguities this will pave the way for dealing with conflicting parties immediately in the process of conflict resolutions

Effective Communication; The relevance of good communication and flow of information in the

conflict resolution process cannot be overemphasised and is a good way through which the conflict resolution process can be effectively achieved. Information flows include making available data that are related to conflict resolution in the schools. There is a need of the availability of publications and feedback in the related area of dispute resolution

Reducing Delays; Doing away with issues of delay that exist in the conflict resolution cycle the undue delay challenging grievances through a whole lot of concerned parties before it is resolved is highly needed and it goes a long way in successfully resolving issues that involve disputes in the higher institution of learning.

Dimension of Conflicts in Tertiary Institutions

Dimension of conflict in higher institutions of learning may be thought of as having three dimensions; perception, feeling and actions. Denis (2020) opined that conflict involves the perception that one person's interests, needs or values are incompatible with those of another person. Conflict also involves feelings such as anger, fear or sadness, Cooperative and assertiveness are additional dimensions that exist in higher institutions of learning. Conflicts are manifest through the parties' actions, from speech to violence. Each of these dimensions can vary independently of other higher institutions, although they usually do affect each other.

In higher institutions for conflict resolution to be successful in the words of Aliyu (2019) it requires more than just a mechanical application of procedures and techniques what is needed in the contemporary situation is ADR which is a way of thinking about conflict resolution, a set of intellectual and interpersonal skills, and a clear focus in the institutions. Aliyu (2019) offers ways of thinking about the conflict that are relevant and helpful to conflict resolution in tertiary institutions seeking to facilitate collaboration problem problem-solving. Usually manifests as intrapersonal conflict, here, conflict denotes the dissonance in the personality of the actors in the school environment. Another dimension is between one person and another (i.e. interpersonal conflict), and between departments, students-groups, lecturers-group etc (i.e. inter-group conflict)

Conflict resolutions in ADR in tertiary institutions have three dimensions. Sani (2018) postulates that resolutions involve believing that the conflict is ended, no longer feeling in conflict stopping conflict behaviours in the school and implementing new behaviours. Emotional closure often comes from having one's needs acknowledged of the causes of conflict. Consistent with the dimension of conflict, to effectively resolve conflict attempt to understand the causes of dispute is desirable. Bala (2022) opined that understanding a conflict should start by examining the proximate causes. A better understanding of the conflict's history and its dimension, and the parties' feelings, values and patterns of communication, will reveal their deeper needs. ADR is effective in contemporary Nigerian tertiary institutions.

An Overview of Alternative Dispute Resolutions (ADR)

Alternative dispute Resolution (ADR) refers to the different ways people can resolve disputes without a trial. Common ADR processes include mediation, arbitration, and neutral evaluation. According to Denis (2020), types of ADR include arbitration, mediation, negotiated rulemaking, neutral fact findings and minitrials. Except for binding arbitration, the goal of ADR is to provide a forum for the parties to work toward a voluntary, consensual agreement, as opposed to having a judge or other authority decide the case.

Alternative dispute resolution started in the United States in the 1970s in response to the need to find more efficient and effective alternatives to litigation. Alternative Dispute Resolution (ADR), also known as external dispute resolution in some countries such as Australia, the UK and Canada, is flourishing throughout the world because it has proven itself, in multiple ways, to be a better way to resolve school-related disputes (Sani,2018). The idea of ADR is about the search for and the application of "non-conventional" peaceful means of settling disputes and resolving conflict situations using the

least expensive methods and in ways that satisfy the parties, as well as ways that preserve relationships diplomatically. This reduces the adverse effects of conflict aftermath between and among conflict parties (Sani, 2018).

Bala (2022), holds that ADR is the pragmatic practice of settling or resolving inter-socio human discords in tertiary institutions for example. It is strategically oriented in the sense that it adapts to situational circumstances as it strives to find the ‘‘appropriate’’ conflict settlement model(s). Nevertheless, Aliyu (2019) is inclined to view ‘‘Appropriate’’ Dispute Resolution (ADR) as a better dispute conflict management strategy. This is because it is more pragmatic, adaptive and psychologically sensitive to the strategic goal of Conflict Management. However, if the matter of semantics is done away with, ADR tends to operate in consonance with appropriate conflict resolution. Alternative conflict resolution cannot be said to be complete without mediation, negotiation, conciliation, and arbitration. These four aspects of ADR require explanation as their efficacy is better understood than assumed.

Mediation

Mediation is a constructive conversation between people in a conflict facilitated by a neutral third person Denis (2020). The mediator mediation provides plain level ground to parties involved in the conflict to collaboratively design creative solutions to work in repairing the relationship professionally. It is important to note that mediation can be used at any stage of disagreement or dispute, the process of mediation is flexible and mostly voluntary and any agreement is morally rather than legally binding. The process of conflict resolution through mediation aims to create a safe and confidential space for those involved in the conflicts and work on acceptable solutions to each side.

Mediation is effective in conflict resolution in higher institutions of learning, as parties involved in the conflict negotiate their settlement and have more control over the outcome of their dispute. Parties have an equal say in the process, there is no determination of fault rather parties reach mutually agreeable solutions to the existing conflict and preserve rapport. Bala (2022) identified that the major roles of the mediator in conflict resolutions in tertiary institutions are to guide the conversation in the process of resolving disputes to minimize or eliminate confrontation and ill will, and to seek concessions from each party to identify the middle ground and provide steps for each party to follow to enact a reasonable solution

Mediation is a recognized strategy in conflict management. It introduces a neutral (third) party who understands the language of the subject matter to bring a lasting solution to the conflict. The idea of imposing decisions as well as interest in conflict and its outcomes is absent in the third party’s agenda. For the mediation process to gain its ground, the conflicting parties must ascertain the needed potential of the mediator in terms of confidentiality, resourcefulness, impartial tendency etc. It is pertinent to note that to establish an equilibrium in a conflict situation in the school, the mediator (such as the school head) tries to explain the process to the parties involved, allows the parties to express their feelings, helps the parties to identify and understand their interests and priorities. He/she also helps the parties with brainstorming creative options and solutions as well as evaluating alternatives. On the other hand, this may not be achieved if the mediator does not have listening skills, strong negotiating skills, the ability to create trust among the parties, the ability to identify the issues of the dispute, patience, endurance, perseverance, thoughtfulness, common sense, experience, problem-solving skills and most especially, education. All these, the school head should note in his/her bid to effectively handle conflict resolution in the school environment.

Negotiation

Negotiation is another persuasive approach to resolving conflict which does not involve a third party. The necessity for negotiation stems from the fact that a conflict has within it the potential for a future major dispute, but at the same time contains the possibility of future, creative cooperation, provided

the parties seek a win-win solution. To accomplish this, one must learn to negotiate in a manner that is less competitive and adversarial, thereby invoking the potential for cooperation in negotiations, there are three approaches to resolving the dispute, each with a different orientation and focus. These are interest-based, rights-based and power-based approaches. They can also result in different outcomes (Bala, 2022). Negotiation typically takes place during the early stages of conflict when communication between parties is cordial and good or at the de-escalation (or lowered tension) point when communication has been restored. A matter can be escalated if a party or parties involved choose to consult an external body (or bodies) for advice and information to get its interest. It is a given that when there is a dispute, the bone of contention (the actual issue) must be spelt out before negotiation properly begins. The victory in this process depends to a large extent on the players (negotiators) who should be appointed based on experience and competence. Inexperienced and incompetent negotiators are like new employees who tend to be nervous about taking on new job assignments. When considering negotiation, a negotiator (maybe the school head or the body of conflict resolution handlers) must know when and how to negotiate. According to Sani (2018), the following is a list of the appropriate times to negotiate:

- When you must make a decision and there is no better alternative;
- When the task or issue is important (if it is not, either let it go or lead strongly);
- When you are in a position to explore other options;
- When not negotiating would cost you a lot, or you have something to gain;
- When there has been a misunderstanding or no understanding or agreement;
- When you would prefer to openly discuss differences.

Conciliation

Conciliation deals with the ADR process involving a third party bringing together all sides of the conflict for discussion among themselves. According to Shamsu (2020), conciliators do not usually take an active role in resolving disputes but may help with agenda setting, record keeping, and other administrative concerns. A conciliator may act as a go-between when parties do not meet directly, and act as a moderator when joint meetings are held.

Arbitration

Arbitration is important in ADR. Arbitration is a process wherein parties in conflict agree to submit their dispute to a neutral party, who decides their case. Shamsu (2020) observes that the parties agree on the third neutral party panel, to whom they will present their case. The arbitrator has the power of decision in the settlement process. It is a private and less formal process than litigation in court. There are several varieties of arbitration. It may be binding or non-binding, and the arbitrator's decision may be with or without a written explanation or opinion. The arbitrator meets with the parties to a dispute, hears presentation from each side, and renders a decision.

Conclusion

The head of a higher institution's ability or inability to meet the needs of academic and non-academic staff members can affect the level of attainment of the pedagogical practices, as well as the administrative goals of the institutions. Head and tertiary institution members constantly face conflict in the workplace. Being familiar with ADR, and its application makes resolving conflicts easier and more humane. This approach seems to be important as a method used to gain win-win reconciliation rather than being one for specifying the "right" or "wrong" of a conflict. However, leveraging the advantages of mediation, negotiation, conciliation and arbitration as parts of ADR can better the chances for dispute resolutions between and among staff members and students in the Nigerian tertiary institutions.

Suggestions

The following suggestions are germane as far as the use of ADR in school-based conflict resolution is concerned:

Based on rustication, suspension and expulsion being embarked upon by the school authorities, ADR should be applied to members of the school community in conflict resolution instead of litigation or police involvement.

Alternative Dispute Resolution (ADR) committee should be set up in tertiary institutions in order to institutionalise the democratically-oriented principles and practice of mediation, negotiation, conciliation and arbitration in schools so that a school-friendly atmosphere can be actualised.

Refresher training i.e. workshops, seminars and conferences should be organised for conflict resolution stakeholders to be acquainted with new trends of conflicts and the best-practice strategies for resolving the conflict in learning organization.

Proactive strategies should be emphasized rather than Reactive approaches for win-win decisions in resolving conflict in the institutions of higher learning.

Best-practice alternative dispute resolution strategies should always be utilized in conflict resolution in higher institutions of learning to have a peaceful teaching and learning environment

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