

**THE “MULTI-DOOR” CONCEPT IN NIGERIA:
THE JOURNEY SO FAR**



AINA, BLANKSON & Co.

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INTRODUCTION

The Multi-Door Concept is a child of necessity well conceived and delivered at due season to the global justice system. As it is a well known fact that justice and peace are interlinked, the concept may well be regarded as a veritable gift to the peace building processes in a conflict ridden world.

For quite a long time, the settlement of disputes by adversarial contest had dominated the judicial landscape of the world with an air of seeming unquestionable veneration. Lawyers as principal actors in this landscape were by virtue of their training encouraged and inspired to pursue litigation whether for good, bad or no cause at all. Victors among them greatly rejoiced as they were crowned as kings and branded as those who best understood their trade. Lamentably, the incense burnt all the way through the shrine of justice to the podium of celebration has always been time consuming, painful and costly to disputants. Most importantly, its effect on peaceful co-existence of people is most unpleasant. Perhaps, nothing best captures the injury of contestation on peaceful co-existence as the saying of the Yoruba people of the South western Nigeria that *“A ki ti Kootu de ka sore”* meaning you don’t return from court and remain friends.

This Paper will showcase the MDC Concept in Nigeria emphasizing how it started, where it is presently and the future drawing from the experiences of the Lagos Multi Door Courthouse, being the first court-connected ADR center in Africa .



THE ORIGIN OF THE “MULTI-DOOR CONCEPT”

The idea of multiple channels of justice is not alien to Nigeria .As far back as 1976, during a presentation at the 1976 Pound Conference about public dissatisfaction with the justice system, Harvard Professor Frank E.A. Sander offered an innovative approach that could ease the growing demands on courts throughout the country. Calling the concept the multi-door courthouse, Professor Sander envisioned one large courthouse with multiple dispute resolution doors or programs. Cases could be diagnosed and referred through the appropriate door for resolution. The programs could be located inside or outside of the courthouse, and could include, but would not be limited to, litigation, conciliation, mediation, arbitration, and social and governmental services¹.

Since then, countries most especially those embracing the common law, had started to look for a way out of the *status quo*. These countries, notably the United Kingdom, Canada and the United States of America evolved the concept of a “Multi-Door Courthouse”, (as enunciated by Prof. Sander) whereby different aspects of resolution of disputes other than the traditional method of adversarial contest could be under the umbrella of a single courthouse. ² According to the final report of the Massachusetts Futures Commission; which was set up to address the difficulty plaguing the American Justice System:

“adjudication alone would not be adequate to accommodate the next century's wide variety of disputes and disputants”.

The Commission advocated a system in which consumers of the public justice system would have convenient access to a wide variety of methods for resolving their disputes. Some of those remain adjudicatory in nature, such as trials and arbitration. Others rely on agreement between the parties, like mediation, case evaluation, and various forms of facilitated but non-binding settlement processes. The report further noted that the courts would take an active role by assisting the parties in choosing the most appropriate method. The system would be



characterized not only by wide range of dispute resolution methods but a respect for consumer choice. The Lagos Multi-Door Courthouse embodies these principles.

MULTI-DOOR COURTHOUSE IN NIGERIA

In 1995, I was five years old in legal practice and a partner in the law firm of Aina, Blankson & Co. as Head of Litigation. Those short glorious years were for the most part spent in courtrooms, a place of passion and great delight but very little satisfaction. It was my view then (and still is) that access to Justice means much more than access to the courtroom; access to justice means providing opportunity for a just and timely result. Not only did I not experience that **“just and timely result”** in those five years, none of those I represented did.

I needed no conviction that for litigation to be effective and indeed for an efficient administration of justice to be attained, there must be supplementary avenues for dispute resolution. In my view, the ideal court is neither a High Court nor a low court but rather, a comprehensive dispute resolution center that could offer an array of options ranging from litigation to arbitration, mediation and others in the resolution of disputes.

As Prof. Frank E. Sander’s Multi-Door concept met my aspirations, in 1995 I founded the Negotiation & Conflict Management Group (NCMG) as the body to midwife this dream. It was not until the year 2001 when the dream became a reality when the NCMG collaborated with the Lagos State Judiciary to establish The Lagos Multi-Door Courthouse (LMDC) as the first court-connected ADR center in Africa. It was officially declared open on Tuesday June 11, 2001 by the State Chief Judge, Hon. Justice I.A. Sotuminu.



Subsequently, the concept was replicated in the judiciary of Abuja and presently, there is an on going discussion with at least thirteen judiciaries in Nigeria that have shown interest in its replication.

However, to guide on how the Multi Door Courthouse (MDC) concept operates, I shall rely on the experience of the Lagos Multi-Door Courthouse. The overriding objective of the MDC is as contained in the Lagos Multi-Door Courthouse Practice Direction³ namely to:

“enlarge resources for justice by providing enhanced, timely cost-effective and user-friendly Access to Justice for would be and existing plaintiffs and defendants”.

Hence, instead of litigation being the “mono-door” for the resolution of disputes, the MDC has three supplementary doors by which disputes can be resolved, namely; early neutral evaluation, mediation and arbitration.

THE CONCEPT OF MDC: HOW IT OPERATES

The key feature of the MDC proceedings is the initial procedure, which is in two stages: Intake Screening and Referral.

INTAKE SCREENING ⁴

Upon the receipt of the disputing parties’ Statement of Issues, the ADR Registrar shall exchange the Statements between the parties and invite them for a preliminary meeting or screening.

An Individual Screening Conference is set up for appropriate cases. This provides a unique opportunity for individual case needs assessment and litigation/ADR management. This is the hallmark of the Lagos Multi Door Courthouse (LMDC). An experienced multi-door courthouse staff conducts it. It is confidential, with no report made on the court file or to the



judge assigned to the case. The confidentiality is protected by statute and promotes frank discussion of both the legal and non-legal issues.

The tone of a screening conference usually differs substantially from status or pre-trial conferences in court. In these, participants tend to be less candid and to maintain their adversarial posture by developing, building and maintaining their positions. The Screening Conference on the other hand, is directed towards information exchange with the goal of problem-solving and dispute resolution. The process is designed to involve the participants in assessing their case needs from a practical perspective. There are four fundamental components: introduction to the programme and education of the participants in dispute-resolution processes; the gathering of information, including the case facts, procedural history, legal issues, and subjective factors that may impact on the case; the identification of impediments to resolution; and matching the case with an appropriate ADR process and neutral.

- Introduction & Education

The education component continues to play an important role in identifying how different processes may be useful in a particular case, although many lawyers have become much more sophisticated about ADR and have greater understanding of its importance. For those unfamiliar with the multi-door courthouse, the screening process begins with an explanation of the programme and a review of the protocol including confidentiality.

- Information Gathering

The screener then gathers information relevant to an understanding of the nature and dynamics of the case. The parties make a short, informal presentation of their perspectives on the legal foundation of the case; the status of the discovery and other



procedural matters; legal damages or equitable relief sought; and any previous settlement discussions. In this-adversarial setting, the parties are usually able to hear each others' perspectives in a less defensive way than in court. Sometimes, common ground and the basis for further settlement discussions are established at this time. In addition, the screener tries to elicit information about the subjective, non-legal issues. These can be more elusive to discover.

- Identification & Examination of Impediments

A skilful screener helps to uncover the underlying concerns of the parties and to identify what is necessary to resolve the matter. Some cases are straightforward, with standard liability and /or damages issues, but substantial numbers are complicated by concerns, which are harder to determine. Often the parties are not fully aware of the impact of hidden emotions and resentments. Obstacles to resolution can include diverse factors such as lack or failure of communication, poor preparation, no demand or unrealistic expectations, no offer, client control issues, related cases in other courts, discovery delays, contentious relations between the parties and/or attorneys, and underlying issues of power and control. Some of these barriers can be removed simply by identifying them. Others require concrete steps such as hiring an appraiser or delivering documents. Once barriers are removed, settlement negotiations can proceed. Frequently, a well-placed question or observation provides the catalyst for bringing the parties to the settlement table.



REFERRAL

Having examined the dynamics of the case and impediments to its settlement, the screener helps the parties to determine the most appropriate type of intervention. Parties may choose to leave the programme or to continue with one of the available options. A wide range of factors is relevant in choosing the most appropriate ADR process. These include: the nature of the case (for example, debt, employment etc); the number of participants (a two-party 'slip and fall' is very different from a multi-party construction case); the relationship between the parties and/or their lawyers; the nature of the relationship between them; the procedural status of the litigation and the relief sought.

After a mutual assessment of the case, the screener reviews the full range of dispute resolution options available; discusses the scheduling procedures and makes a recommendation. The litigants and their counsel, however, make the final decisions about whether they want to use ADR and if so, which process they want. A dispute resolution date can then be scheduled and a neutral assigned. Neutrals are assigned from the multi-door courthouse panels and are selected on the basis of their specific expertise, availability and personal suitability, given the dynamics of the case. The parties are sent a confirmation notice and the neutral's biographical data. They must approve the selection.

Most importantly, the screener works to set the tone for genuine participation in the process and to establish whatever common ground may exist. On some occasions, this may be limited to an indication that all parties want to resolve the dispute and are willing to negotiate in good faith to do so.

The key to effective use of the programme is to identify the needs and status of the case progressively and fashion the best approach to remove obstacles to resolution. For example, borrowers took out a mortgage from a bank for a three-family house, which they operated as a rental property. They fell behind in their mortgage payments and the bank started a foreclosure action. Although both parties agreed on a payment plan to forestall the foreclosure, the bank



neglected to inform its agent, who went ahead and repossessed the property. The agent informed the tenants who were in occupation that the property was foreclosed upon and that the rent should be paid to the bank. As a result, the tenants wasted the property, causing the substantial damage, and refused to pay any rent to the borrowers even after they explained the bank's mistake. Eventually, the tenants left and the borrowers were able to replace them. After the wrongful foreclosure, the borrowers made no mortgage payments. The Bank sued them for the balance owing and the borrowers counterclaimed for rescission of the mortgage based on the alleged breach of the contract.

At the time of the multi-door courthouse screening conference, the loan had been in default for over three years. The case went to mediation and was resolved with an agreement. This included a new contract between the borrowers and the bank with terms that reflected, on the one hand, payment by the bank of damages and, on the other, payment by the borrowers of some of the back mortgage payments. It was significant that the parties agreed to continue their relationship with this new agreement rather than simply agreeing to a final pay-off.

THE DOORS OF THE COURTHOUSE

At the moment, there are three "doors" or processes available at the LMDC-Mediation, Early Neutral Evaluation and Arbitration.

THE DOORS:

- **Door One:** Mediation

In Mediation, a neutral third party (the mediator) assists the parties in a dispute to communicate their positions on issues and to explore possible solutions or settlements. The mediator does not give an evaluation or opinion of the case, but rather prompts the parties to assess their relative interests and positions and to evaluate their own cases by the exchange of information, ideas, and alternatives for settlement.



- **Door Two:** Early Neutral Evaluation

Case evaluation provides the parties with a confidential, non-binding evaluation of their cases by an impartial, experienced attorney.

Counsel presents the case to the evaluator in the presence of the parties. After the presentation, the evaluator reduces the scope of the dispute by identifying areas of agreement, assesses the strengths and weaknesses of the case and its likely outcome, and often assists in the development of a settlement plan.

- **Door Three:** Arbitration

Arbitration is a process in which a third party (the arbitrator) presides over the issues referred to him/her and at the end of the hearing of the case presented by both parties renders a binding and enforceable Award.

THE PANEL OF NEUTRALS

The LMDC maintains a PANEL OF NEUTRALS.

The Panel of Neutrals (Mediators and Arbitrators) is made up of reputable professionals familiar with ADR proceedings, trained and accredited by the NCMG and approved by the Chief Judge of Lagos State upon the recommendation of the Neutrals' Screening and Selection Committee. Parties are at liberty to choose one or a number from among the list of Neutrals for the purposes of the ADR process. It is instructive to note that the composition of the panel is not limited to lawyers but rather a rich mix of retired Judges, Accountants, Bankers and other professionals.



ATTENDANCE AT THE ADR SESSION

It is of central importance that the parties attend the sessions in person to maximize the effectiveness of the process. Lawyers may accompany their clients, however, parties cannot dispense with appearing at the session by sending their lawyers.

The parties attending the ADR session must have full authority, which must be in writing to settle the dispute for the ADR session to proceed. The ADR session may be cancelled if the attending party lacks the requisite authority to settle the dispute.

ENFORCEMENT

If a settlement of the dispute is reached, it shall be reduced to writing and signed by the parties and or their counsel. A Settlement agreement executed by the parties at an ADR Session is deemed to be an Offer to settle which is accepted within the meaning of Order 38 of the Rules of Civil Procedure.

In addition, the terms of agreement could, if the parties so desire, become a consent Judgment of the court.

CONCLUSION

That the Multi-Door concept is akin to the African dispute resolution mechanisms and hierarchical structure is not in doubt. Also not in doubt is its place and promise in the African justice system. As the Lagos State Chief Judge, Hon Justice Ibitola Sotuminu expressed during the official launch:

“The advantages of the LMDC are numerous, but suffice to say that it will not only create a congenial environment, but also encourage foreign investments in Nigeria. It will on the whole provide the needed support



for our nascent democracy. The Lagos State Government believes that by this partnership with NCMG, the pioneer of this initiative, investors would derive a better sense of comfort, assurance and satisfaction that commercial disputes would be more speedily resolved. It will also create a harmonious co-existence for experience has shown that litigation most often create further rifts within families and communities than peaceful co-existence. In addition to these, the success of this programme in Lagos State will determine the acceptability of the project in the other judiciaries in the Country.”

Indeed the success of the Lagos Multi-Door Courthouse in less than one year of its existence has already caught the interest of other states in the country including the Ghanaian Judiciary. It is no doubt an initiative worthy of replication in other African States.

DISPUTE RESOLUTION GROUP

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END NOTES

1. This dialogue is from a study conducted in Ibadan and contained in the book *“Informal Channels for Conflict Resolution in Ibadan, Nigeria”* by Albert Awe, He’rault and Omitogun, 1995 P19.
2. J.L. Comaroff and S. Roberts; *“Rules and Processes: The Cultural Logic of Dispute in Africa Context”*. University of Chicago Press, Chicago 1981, P109.
3. There is a difference between ba’ale (a Chief of a ward/quarter) and a baale, the head of a household, which includes the man’s immediate family, i.e. his wives and children.
4. N.A. Fadipe. *Sociology of the Yoruba*, Ibadan University Press, 1970, P.106.
5. Govin Williams, *State and Society in Nigeria*, P. 144
6. This has been culled from *Informal Channels for Conflict Resolution in Ibadan, Nigeria*. Op. Cit. P23
7. *Solomon Olugbenga Ayoade*, The methods of disputes settlement among the Yoruba. *The Ibadan Customary court as case study*, B.A. Anthropology dissertation, University of Ibadan, December 1989, Chapter 2.
8. Interview with Chief Yinka Ogunsola as contained in Awe et al book (supra).
9. Superior Court of the District of Columbia: 1997 Program Summary. P.I.



10. This has been culled from the speech of Hon. Justice Kayode Eso, CON at the public presentation of the Newsletter of the Negotiation & Conflict Management Group (NCMG) on April 17, 2003.
11. The Lagos Multi-Door Courthouse Practice Direction Pursuant to Section 274 Constitution of the Federal Republic of Nigeria 1999
12. Achieving Civil Justice; Appropriate Dispute Resolution for the 1990s: Specifically see “Multi-option justice at the Middlesex Multi-Door Courthouse by Barbara Epstein Stedman Chapter 5.

¹ Superior Court of the District of Columbia: 1997 Program Summary. P.I.

² Culled from the speech of Hon. Justice Kayode Eso, CON delivered at the public presentation of the Newsletter of the Negotiation & Conflict Management Group (NCMG) on April 17, 2003

³ The Lagos Multi-Door Courthouse Practice Direction Pursuant to Section 274 Constitution of the Federal Republic of Nigeria 1999

⁴ Achieving Civil Justice; Appropriate Dispute Resolution for the 1990s: Specifically see “Multi-option justice at the Middlesex Multi-Door Courthouse by Barbara Epstein Stedman Chapter 5.

