

Mediation as an Effective Conflict Resolution Mechanism: The Nigeria Football Federation Crisis as a Case Study

Jimoh Ahmed Ayinla

Kwara State College of Education, Ilorin

Abstract

Mediation is a process of dispute resolution focused on effective communication and negotiation skill. It is flexible and highly varied process which includes any situation in which a person gets involved in a conflict between two or more with other people to help them resolve it, but has no power to take any one do anything in particular. The paper takes a crucial look into Alternative Dispute Resolution (ADR) as a better conflict resolution strategy to litigation. The lingering crisis that rocked the Nigeria Football Federation (NFF) since the year 2012 to mid 2015 was about to take a devastating effect on the country Football development before President Goodluck Jonathan waded in (through mediation process) and got the matter out of court. The concept of mediation, its type and advantages were critically reviewed. Suggestions and recommendations for effective use of mediation in promoting peace in the running of Nigeria Football Administration were also propounded. Win lose approach, dialogue among others are the necessary strategies in Alternative Dispute Resolution mechanism of resolving football crisis. The ADR spectrum should be widely embraced for effective and efficient Soccer Administration in Nigeria.

Mediation is a process of dispute resolution focused on effective communication and negotiation skill. It is a flexible and highly varied process which includes any situation in which a person gets involved in a conflict between two or more other people to help them resolve it, but has no power to make any one do anything in particular.

Good Pastor (2000) describes mediation as:

"A problem solving negotiation process in which an outside, impartial, neutral party works with disputants to assist them to reach a satisfactory negotiated agreement." Pg. 96 – 97.

The mediator acts as go-between to facilitate the negotiation between two warring parties to bring about an impartial solution or settlement. The mediator must be seen to be impartial. He must be endorsed by the two parties as one who is able to throw his weight into conflict and effect a peaceful settlement.

Unlike arbitration, the mediator is not empowered to decide any dispute, but simply acts as a facilitator to help the parties reach a mutual acceptable agreement. Mediation is negotiation by reliance on a third party. The stuff of mediation is a process of non-binding

undertakings, procedures and decisions on the disputing parties by an external peace actor. For a proper understanding of what mediation/conciliation is, it is appropriate to define alternative dispute resolution (ADR).

ADR according to Aja (2007) means, “an alternative to a settlement in the court of law, just as it is to the use of confrontation, or coercive means of settlement.”

Other methods of peaceful resolution of settlement recognized include Negotiation, Mediation, Conciliation, Arbitration, all these work better if properly handled; on the other hand the outcome of the ADR spectrum depends largely on the nature and intensity of the Conflict.

Albert (2009) defined mediation as a facilitated negotiation via a third party who ensures free flow of information or communication between the conflicting parties, the mediator is seen as a moderator and not a judge.

Objectives of the Study

The main purpose of this study is to examine the effectiveness of mediation in resolving Nigeria Football Federation crisis.

Like any other complex organisation, management of crisis in football administration deserves a better attention because of its sensitivity, and it should be treated with utmost care, otherwise the goal and objective of soccer will be derailed. One of the cardinal objective of soccer in Nigeria is to promote friendliness and for entertainment.

In the light of the aforementioned, the objective of this study is to examine the effectiveness of mediation as a better means of resolving football crisis.

- The study is set to examine mediation procedure as a time saver and cost reduction to conventional court system.
- It also examines those that can serve as mediators and why are they respected by the conflicting parties.

Method of Inquiry Adopted in the Research Work

Case study approach is employed in the study. Jegede (1999) stated that the most meaningful numerical studies in solar service are those which are liked with exhaustive case studies describing accurately the interrelationship of factors to process. Case study also helps in finding solution to problematic situations. Although more often than not, it is used as preventive measure, it can also be used to preserve solution to problematic situation. Since constant crisis in the Nigeria Football Federation continue to pose a very serious dangerous signal to the existence of the body, a research work is highly desirable, hence case study approach is hereby adopted to bring out a workable solution to the problematic signal in Nigeria Football Federation which constant crisis is nurturing before it starts to germinate.

The Nigerian Football Federation (NFF)

The laws of the Federation of Nigeria N110 part 1 section 1 gave legal backing to the establishment of the association. The association shall be a body corporate with perpetual succession and a common seal; and may sue and be sued in its corporate name.

The laws that established the association spelt out the following objectives:

- a. Encourage the development of all forms of amateur and professional football in accordance with the status and laws of the Federation of Sport of Football, and of any other International Football body to which the association is affiliation;
- b. Encourage the affiliation of Nigerian Football Clubs which recognized international football bodies, to improve the standard or performance of Nigerians in the world;
- c. Enhance the status and impartiality of football referees in Nigeria;
- d. Find means of ensuring the security of soccer fans and generally, and the participants themselves in particular.
- e. Provide source of funding the game of football in Nigeria.
- f. Encourage the participation of Nigeria Youths in the game of football.

With the above insight to the establishment of the Nigerian Football Federation, the body is saddled with the football administration and affiliation to other Africa/World Football bodies such as FIFA-Confederation of Africa Football and Federation of International Football Association respectively. The body, Nigeria Football Federation (NFF) is bound to face internal and external wrangling just like any other formal organizations. When such conflict arises effort should be made to resolve it such that it will not degenerate.

Shortly after the NFF elections, series of court orders and FIFA sanctions have been served on the two factional leaders of the NFF: a faction led by Mr. Amaju Pinnick and Chris Giwa. The two factional leaders hold claims to the leadership of Nigeria Football Federation president, an action which compelled the world football highest authority threatening the Country to be sanctioned if the matter could not be amicably resolved.

Friday, October 31, 2014, was the deadline given by FIFA to Nigeria to resolve the court orders an action which is inimical to the running of Football, this according to "the Nation" of 31st October, 2014, compelled Nigeria President Goodluck Jonathan to intervene in the matter and this made Chris Giwa led executive to withdraw the case from court and Nigeria escapes FIFA ban. Ambassador Chris Giwa on Thursday 30th October, 2014 at Federal High Court in Jos had withdrawn his case. This action in line with ADR of resolving NFF crisis saves Nigeria of facing FIFA wrath.

The move according to The Nation Newspaper of 31st October, 2014, has effectively killed off the court case and this means the Amaju Pinnick led NFF Executive Committee to continue the running of NFF without any interference or hindrance and this was the demand by the FIFA.

The count has therefore beaten the deadline of mid-day of Friday, 31st October, 2014 given by the FIFA.

Types of Mediators

Aja (2007) identified three types of mediators and these are: i. **Social network mediator:-** Mediation by social network has increased with the emergence of age grade associations, business associations, religious organisations and non-governmental organisations, it may even be a friend, neighbour, members of families, religious or group.

ii. **Authoritative mediator:-** In a social network, there are bound to be those whose control of authority can exercise influence on other members of the community, association, or organisation. The principle of no authoritative decision by any mediator remains.

iii. **Independent mediator:-** A member of concerned individuals and non-governmental organisations have played independent mediation roles in conflict situations. They are neutral, but very concerned on the conflict situation.

An individual who mediates rest their influence on their power and the conflict parties respect them as a result of the power individual occupied in the society.

All the three types of mediators above discussed are quite relevant to the resolution of Football crisis in Nigeria.

Different people from different angle made their cases during the lingering crisis that erupted in the Nigeria Football Federation. The press through series of Publications, editorial comments appealed for peaceful settlement of rancours between the actors in order to promote football development in Nigeria. The religious organisations, philanthropists, various non government organisations were not left out.

Authoritative mediator also influence to a large extent, a good example is the influence of President Jonathan on the Nigeria Super Eagle Chief Coach re-instatement by the Nigeria Soccer ruling house (NFF). The President wade in through his authority as the country head of Government and his view was widely respected by the conflicting parties. Many other people also threw their weight in mediating, they wade no influence but only appealed for settlement to allow peace to reign. All these mediators are quite relevant in the settlement of Football crisis and any other related ones, the result promote quick and efficient resolution of crisis.

Power in Conflict Resolution

In conflict resolution "power" determine to a large extent the intervention of an individual and the effect on the conflicting parties. People in conflict concede due to one or many reasons. Those who hold Reference Power like traditional Chiefs, Emirs or Obas intervene on many National Crisis and their views at times are widely respected. In the resolution of Nigeria Football crisis different people from different walks of life call on Nigeria Football governing body and Coach Stephen Keshi to allow peace to reign and avert the Nigeria Football Federation from FIFA ban.

Court as a legitimate power play good role in interpreting and quick dispensation of justice, through this court intervention Nigeria escape the clamp down of Federation of International Football Association (FIFA) hammer before the deadline given for quick resolution of internal crisis rocking the NFF body. Power in conflict resolution cannot be

overlooked because of its significance. Power according to Albert (2009) emphasized its vital role in the resolution of conflict.

Court Order and Nigeria Football Federation

Crisis between the two factional leaders of the NFF resulted into the threats, sanctions from world governing body FIFA and this negatively affected the organisation. A suit was filed in a High Court located in Jos with a suit also PLD/342/2014, the suit was initiated by Mrs. Baribote on behalf of the husband. She had asked the court for an order of Interim injunction restraining the 2nd Defendant, (Aminu Miagari) and all the committee and congress of the first defendant (the Nigeria Football Federation) from further controlling, commanding or managing the Affairs of the first Defendant and all football matters in Nigeria pending the hearing and determining of the Motion on Notice for Interlocutory injunction. The judge handling the case granted the prayer of the plaintiff and this stall the activities of the NFF.

A Federal High Court headed by Justice Allagoo had earlier set aside the election of Mr. Amaju Pinmick as the chairman of the Nigeria Football Federation on the premises of flouting a court injunction. Justice Allagoo said "I have set aside all the proceedings and decisions of the Warri extra ordinary meeting of the 20th September and the Elective Congress of 30th September which were direct contravention of the orders of this court as granted on the 19th September". (The Nation Newspaper of Sunday, 23rd November, 2014).

The Chairman of Electoral Appeals Committee denied receiving any court injunction. Mr. Okeychukwu Ajunwa, declined any court injunctions. "He further described all these litigation as a time wasting device".

As the court injunctions, was going on, the President of the country Goodluck Ebele Jonathan wade in and resolve the matter out of court.

The Minister of Sports in Nigeria Dr. Tammy Danagogo in the Nation Newspaper of 31st October, 2014, commended the President for his timely intervention in the crisis rocking Nigeria Football Federation (NFF). "His intervention according to the minister saved the country of big hammer from the FIFA deadline of Friday 31/10/2014.

Looking at the cases, injunction, counter injunctions among the members, quite a lot of time, energy, and resources have been wasted. The Nation Football families no doubt have been holding into unnecessary ransom, but for the timely mediating by the president saved the country from a lot of embarrassment.

Dispute Resolution under the Nigeria Football Federation (NFF)

Generally, when dispute arises as to the terms of a football contract, resolution is not advisable in a regular law court as football contract is a specialized one and time sensitive. Moreover, FIFA, the Football governing body prohibits the institution of such actions in a

regular law courts, "Article 73 of the Nigeria Football Federation Status gave a total recognition and empower the court of Arbitration tribunal to rule on dispute involving players and club management (Jimoh, 2009).

The stand by FIFA is still a disputed one and the courts in some countries have held that this provision is contrary to the principles of justice as the effect is to out the jurisdiction of the courts (Ayokunle, 2009).

Dispute arising from the contract can also be referred to the NFF for her appropriate decision, and on all matters arising from a dispute in football contract locally.

Where this dispute arises from an international transfer, the appropriate body to go to will be FIFA and where dispute arises as to a rule of FIFA or where a party seeks to address a wrong done by FIFA, the independent Court of Arbitration for Sport (CAS) in Lausanne Switzerland is the body to appeal to <http://www.tas-cas.org/en> mediation.

The Nigeria Football Federation NFF, the only football authority in Nigeria also gives all necessary recognitions to its appeal committee and Arbitration tribunal to hear and determine players, clubs, coaches' grievances and the ruling of former can be re-addressed by the later if not satisfied, for the final award.

Conclusion – Arbitration has become a very powerful veritable tool of resolving player transfers cases in the Nigeria Football League over the years and it will continue to enjoy so going by the trends of development in the world as there is the clamoring for peace world over.

Arbitration under the Nigeria Football Federation

Article 73 of the Nigeria Football Federation states that the:

NFF shall create an Arbitration Tribunal, which shall deal with all internal natural disputes between NFF, its members, players, officials and match and players' agents that do not fall under the jurisdiction of its judicial bodies. The Executive Committee shall draw up special regulations regarding the composition, jurisdiction and procedural rules of this Arbitration Tribunal.

The soccer governing body in Nigeria according to its article duly recognize the establishment of arbitration tribunal in settling disputes in football management due to its efficacy. This method is non advisory, time and money saver.

It is widely believed that in the day to day running of an organisation conflict is bound to set in we cannot run away from it but when it happens effort should be geared up to resolve it so that it will not escalate.

Litigation and its effect on Nigeria Football Federation

Aja (2007) opines that parties in conflict who decide to seek adjudication in court, perhaps, when negotiation of arbitration fails, run the risk of a zero sum game outcome. It may be winner takes all, rather than "win some, loss some". In addition, the judgment will have the force of law and will have to be enforced, probably by the law enforcement agencies of the state. He goes further, "the outcome may tend more to deepen and expand anger, bitterness, distrust to the points of either furthering conflict indicators, or extreme

violence". Align with the above submission the crisis in the Nigeria Football Federation would have destroyed completely the body as a result of series of litigation in law court if not of timely mediation of Mr. President Goodluck Jonathan (Vanguard, 31st October, 2014).

Advantages of Alternative Dispute Resolution in Resolving Conflicts

Ojielo (2001) advances eight reasons why ADR has become necessary there are:

i. Overloaded Court Dockets

Our society is litigious and people easily resort to "teach the other party a lesson". We look to our courts to resolve disputes, yet we have cultural process that ought to enable us to resolve these disputes in our informal, individual or group basis..... it is not uncommon for a civil case to take between three to eight years before a judgment is entered in land cases, this could actually take more. A review of cases in the Nigerian Courts shows that on the average, it would take more years to conclude a case originating in the Magistrate Court to the Supreme Court.

ii. Increase Cost and Decreasing Satisfaction with Litigation

Many companies have grown frustrated with the cost of litigation in money, in personnel, time, in lost opportunities and in the negative effect on ongoing business and employee relationships. Many companies today especially in the United States, therefore have embraced ADR requiring that it be considered in all their cases. Some according to Ojeilo (2001) have also taken ADR pledges, to use ADR prior to resorting to litigation with other companies which have also taken the ADR pledge. In Nigeria, the first institution to introduce ADR was led by the National Maritime Authority.

iii. Legislation and Regulation

The arbitration and conciliation decree of 1988 according to Akanbi (2008) was the first major statutory enactment that provided a detailed process on how to engage in ADR. The decree provided for domestic and international arbitrations and spelt out comprehensive rules for engaging in Arbitration. There are presently two arbitral bodies in Nigeria viz the Nigerian chapter of the chartered institute of Arbitrators, London and independent and home grown chartered institute of Arbitrators, Nigeria. There is a lot more awareness of the provisions of the awareness provisions of the decree and increasingly lawyers are beginning to insert arbitration clauses while drafting commercial agreements for their clients. Although, the Nigerian law does not allow the process of mediation, there is no legislation yet that specifically provided for it. This means that parties could resort to it (mediation) if they so wish. Some State Governments in Nigeria have started to consider ADR and in fact, the institution of chartered Mediation and conciliators has produced its own detailed rules on mediation as was as a pledge

on mediation. The institution is working on law reform and has presented a bill to the National Assembly to amend the High Court Rules of the Federal High Court to provide ADR.

iv. Backlash

Disputants feeling are disenchanted and protesting against expensive lawyers' law suits, and legal costs. Many are therefore resulting to extra-legal means in resolving their disputes. ADR is therefore, seen as a less expensive way to resolve disputes if properly managed.

v. Societal Movements towards More Humane Methods of Dispute Resolution

Several categories of people are today increasingly becoming fed up with open and physical clashes and have decided to shift their emphasis on communication and working together to informally resolve differences through problem solving.

vi. Desire to Empower Disputants to participate in resolving their own Disputes

ADR permits the disputants to craft own solutions to disagreements and any resolution arrived at, is the success of the disputants and not of the neutrals. This is because the disputants own and control the process of ADR.

vii. Increasing Interest in Flexible Dispute Resolution

Hitherto, all kind of cases are taken to the court even though many of them are appropriate for ADR processes either for finality or first before they may be litigated, ADR is therefore a way to introduce flexibility into the dispute resolution process to tailor the process to the problem.

viii. Interest in Confidentiality and Avoidance of Publicity

Most people prefer to treat their cases confidentially and since mediation on the whole is a discreet process and the results capable of being kept confidential, a lot more people especially in African context will normally like to prefer ADR to litigation as cases in court are usually open to members of the public. Ojeilo, therefore observes that the parties or defendants can use ADR to shield disputes and settlements from public security and to prevent disclosure of repeated violation.

Conclusion

The paper was designed to look into mediation. The concept of mediation as a dispute resolution mechanism was analysed.

The findings reveal:

Conflict is inevitable in our daily interactions. Also when such arise a peaceful means of resolving it should be worked out. Litigation is a judicial process and it consume quite a lot of time, money and energy as it was revealed in the crisis in Nigeria Football Federation, series of court injunctions were issued and this angered the World Football Controlling Body (FIFA) to give an ultimatum to NFF to resolve or face suspension from World football governing body.

In order to get out of this mess situation, the Nigeria President Goodluck Jonathan Mediate and resolved the matter out of court.

Mediation is not only a time saving mechanism of resolving conflict but resources, energy saving device. In resolving sport crisis, since time cannot be quantifiable, the parties should try to embrace and respect ADR alternative dispute resolution process to resolve issues instead of dragging issues at conventional courts which is a time consuming process.

Recommendations

On the basis of the findings of this study, the following recommendations were made:

- Effective seminar should be organized in the Nigeria Football Federation.
- Awareness of the functions and importance of mediation in resolving crisis should be stressed.
- And finally, issues should be trashed out by members by trying to respect and adopt dialogue, negotiation, mediation, arbitration as an alternative to litigation in resolving issues in the Nigeria Football Federation.

References

- Aja, A. (2007). Basic concepts, issues and strategies of peace and conflict resolution. *Nigerian African Conflict Case Studies*. Enugu, Kenny and Brothers Enterprises.
- Akanbi, M. M. (2008). Arbitration and Alternative Dispute Resolution (ADR) in African being a paper presented at Arbitration and mediation training programme in Ilorin.
- Albert, I. O. (1995). *Informal Channels for Conflict Resolution in Ibadan, Nigeria* (IFRA, Ibadan) pg. 7.
- Albert, I. O. (2009). *Modules in Peace and Strategies Studies*, Course PDS 611 University of Ilorin, Nigeria.
- Ayokunle, A. (2009). *Principle of Football Contract in Esq Legal Practice: Lawyering in the Public Interest Vol. II issues 5 and NBA Special Edition*, 2009.
- Daily Independent 5th November, 2014 reported in the suit.
- Good Pastor (2000). Quoted in Alex P. Schmidt *Nigeria Law and Practice Journal* 6 No. 1 March, 2002 pg. 96 – 97.
- Jegade, J. O. (1999). *A concise handbook of research methods*. Ibadan, Pope Rising Press.
- Jimoh A. A. (2009). A dissertation submitted for the award of the Degree of Masters of Arts in Peace and Development Studies, Centre for Peace and Strategic Studies, University of Ilorin.
- Ojeilo, M. O. (2001). *Alternative Dispute Resolution*, CAA Books, Lagos pg. 1.