Hybrid Model Of Conflict Resolution: Strengthening
ADR And Social Harmony

The paper examines new process of conflict resolution known as the hybrid model of conflict resolution. The model is a product of elements from traditional, modern and faith based processes of conflict/dispute resolution. It is a process that seeks to strengthen the application of Alternative Dispute Resolution (ADR) and other forms of conflict resolution processes through humane processes of conflict resolution. The hybrid model puts the religious inclination and social affiliations of the people into consideration. The model is based on the analysis of study carried out on measures to conflict resolution from 2016 to 2019 in traditional communities of Cross River Igbo of Nigeria. Furthermore, the article adopts historical method of content and objective analysis of primary and secondary data. The findings reveal among other things that the hybrid model of conflict resolution may be applied in any institution of conflict resolution and also in traditional societies and among individuals. It also shows that the hybrid model is sensitive to the heterogeneous nature of the society. The paper concluded with the notion that the hybrid model aims at conflict resolution, restoration of estranged relationship and restorative justice through humane processes.

Keywords: Conflict Resolution, Model, Peace, ADR, Restorative Justice, social harmony.

Introduction

The paper discusses how the new processes of conflict resolution known as hybrid model of conflict resolution could strengthen the Alternative Dispute Resolution (ADR) and other institutions of conflict resolution. This has become necessary owing to the heterogeneous nature of our societies, increasing conflict and the need for humane processes to conflict resolution. This hybrid model is based on the analysis of a study on conflict resolution carried out among some traditional societies of Cross River Igbo of Nigeria. This study groups the advocates of effective measures to conflict resolution into three categories. The first is termed indigenous perspective, it holds that the indigenous institutions as possesses the capacity to resolve any dimension of conflicts as exemplified among the institutions and processes of conflict resolution of Cross River Igbo communities. This is because communal solidarity was not only emphasized but paramount in conflict resolution processes. In other words, the community is paramount and the individuals are

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2 This study was carried out from 2016-2019, it covered Cross River Igbo communities of Abam, Abiriba, Afikpo and Amasiri.
3 A traditional society is one in which kinship and family ties are closely knitted, which behaviour is ruled by tradition or allegiance to culture and ways of behavior continue from generation to generation with little change.
subject to its culture, belief and value systems. The next is the inter-
institutional perspective, which advocates for the strengthening of both
indigenous institutions and the modern institutions of conflict resolution. It
demands that these institutions should be strengthened to work in parity
without any one undermining the other and that such measure will produce the
desired effect in conflict resolution. While the last is the inhuman school of
thought which stresses that the ineffectiveness experienced in these institutions
of conflict resolution are as a result of inhuman processes inherent in them. It
therefore, advocates for a humane conflict resolution processes that have the
capacity to work within each of these institutions of conflict resolution and is
also sensitive to time, relational healing, cheap and respect peoples belief. This
position is based on the fact that these institutions of conflict resolution had
been entrenched in the lives of the people (Onuoha, 2019).

In consideration of the foregoing, the paper agrees with the advocates of
humane conflict resolution processes which possess the following
characteristics:

i. Flexible in operation, inexpensive to access with respect to culture and
belief of the parties in dispute; and

ii. Processes should not be tied to any institution. But such that has the
capacities to operate within any institution charged with the
responsibility of conflict resolution and even among people. This is
because the current ADR processes are tied to the courts procedure.

Furthermore, ADR started in 1970s as result of numerous court cases that
became a burden both to the courts and the disputants owing to the delays in
justice delivery and intensive its capital processes. This quagmire led two
groups of reformers led by scholars and judges in American to propose
different approaches to stop the delay in conflict resolution through alternatives
to court kind of mediation, negotiation and mandatory settlement conference
(Menkel-Meadow, 2016). In 1999, ADR gained legitimacy in Nigeria. But
even with this its processes ADR has not progressed beyond the court possess
that led to its introduction. This is evident by calls from scholars for humane
introduction to conflict resolution processes. Some of these humane advocates
to conflict resolution are Ikenyi (2009), Akume and Abdullahi (2013),
Onwudiwe, Okoye, Obi, and Oluadare (2015), Woko (2016), Ige (2017) and
Onuoha (2019). Irrespective of the interest and position canvassed, none of
these scholars are able to state in any convincing form, the nature of the
humane approach in conflict resolution which they desire, and how it could be
achieved. Consequent upon this, a new approach of conflict resolution know as
hybrid model of conflict resolution is proposed. This approach is human
oriented. It is flexible to operate within any institution of conflict resolution. It
is hoped that it may have the potency to satisfy the interests of the parties in

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3The use of ADR in the Nigerian courts started based on its provision in section19 of the 1999
copyright of the Federal Republic of Nigeria. This gave right to the establishment of the first
conflict without undermining justice in any form. In pursuance of the
foregoing, this study discusses the proposed model under the following: The
ADR and HMCR: A comparison, procedures in HMCR, Advantages of HMCR
and envisaged pitfalls.

The ADR and HMCR: A Comparison

HMCR is a form of Alternative Dispute Resolution (ADR) with variations
and it should not be mistaken for Hybrid Dispute Resolution Process (HDRP).\(^4\)
According to Farfarlane (2010:13), “the ADR exists to encourage the
continuation of relationship which has been fractured, greater participation of
parties in the resolution process, drastic reduction of legal cost and time cost.”
This mandate of ADR is also what HMCR aims at. However, HMCR differs in
it processes. Ota (2010:95) also opines that ADR “refers to all the means,
methods, and processes of resolving disputes outside the normal court room.”
This Ota’s position is in line with Menkel-Meadow (2016,1) position that
“ADR was called the “Multi-Door Court House” an idea that people would
choose a process and reduce their cost and time in resolving dispute.”
However, although HMRC is be grouped into forms of Alternative Dispute
Resolution (ADR) but it has unique processed. For emphasis, these are the
forms of ADR, namely:

i. Mediation is a process of conflict resolution in which a neutral third
party assists parties to disputes in discussing their disagreements with
the hope of finding acceptable resolution;

ii. Arbitration, this entails that parties to a dispute or their lawyers canvass
or present arguments before an arbiter or panel of tribunals;

iii. Conciliation is a process by which disputes are resolved through third
parties who act as go-between, communicating each party position to
the other;

iv. Reconciliation involves a mutual agreement between parties to a
dispute to in order to work towards resolving their dispute. It does not
require a third party. This process works if the parties to a dispute
cooperate but if one withdraws the process ends. The court uses it in
divorce cases; and

v. The Rent-a-Judge approach is the process where parties to a dispute
agree to present their problems to a neutral third party such as a retired
judge for settlement (Ota, 2010).

From the analyses of the ADR forms, three issues come to the fore. One,
each involves a neutral third party; two, the parties in dispute play little
significant role in selecting their collective arbiter and three, it operates within
the jurisdiction of the court. In contrast, the HMCR processes allow

\(^{4}\)The HDRP combines two or more traditional methods into one. For example, the HDRP uses
the same individuals or dispute resolution forum as arbitrator or as arbitrator.
individual’s or parties in a dispute to choose their arbiter or mediators. Succinctly put, each party must have its own representative who will serve as both the mediator and the judge with a court representative as a neutral observer. One of its uniqueness is that it is made up of at least three individuals who preside as judges in any given issue. The HMCR functions within legal system (courts) and outside (the Police and the social welfare). It is the offspring of the mixture of some elements of Indigenous procedures, modern methods of conflict resolution and the faith-based processes. The HMCR is sub-divided into two three versions: The Faith Based Version of Hybrid Method (FBVHM); Traditional Version of Hybrid Model (TVHM); and the Flexible Version of the Hybrid (FVHB). The paper based on the Cross River Igbo examples establishes that there are common strong variables in indigenous, modern and faith-based conflict resolution processes. These elements are belief, time, language, tradition, and the quest for truth (Onuoha, 2019). HMCR blends these common variables for more effectiveness in conflict resolution that is sensitive to justice and enhances the restoration of human relationships which are its cardinal objectives.

**Procedures in HMRC**

The HMRC, as a justice system, is to be administered in varied forms. For instance, when the disputants profess Christianity as their religion, the court Judge (or the Investigative Police Officer (IPO) or the Social Welfare Officer) will mandate them to first of all explore the FBV of the HMRC. The FBVHM creates an opportunity where the spiritual leaders such as pastors or persons adjudged by the disputants to be trustworthy to preside over the matter, and serve as their judge(s). In the same vein, when the disputants profess to be traditionalists, the judge should mandate them to explore the option of the TVHM of the HMCR. The TVHM like the FBVHM creates an opportunity where each of the disputant’s representatives will preside over the proceedings and also act as judge. On the other hand, the FVHM will be used to address disputants of mixed cultural or religious background such as Muslim Christian or Traditionalist and Muslim. The venue of the HMCR proceeding can be in the court, the police station, even social welfare office or any other conducive environment that allows parties to deliberate.

**Relationship Between Disputants and the Judge:** The paper remarks that conflicts irrespective of the nature be it inter-personal, economic, political or social, are made of elements such as perception, feelings, power, values and emotions. The HMCR judges are saddled with the responsibility of ensuring that justice in not compromised for or against their clients. They are to weigh all the issues with human feeling and understanding. The judges are to weigh the matters that have been presented in the light of the following:
i. **Position.** This is the stance that any one in conflict displays for all to see and hear. Simply put the plausible reason advance as the possible reason that motivates the disputant into conflict situation;

ii. **Interests,** underlying the position are interests which are the main objective of the actions which include but not limited to ego, pride, power, gain, revenge, and fame;

iii. **Needs,** beneath interests are needs which are the actual motivating force they include fear, shame, humiliation, deprivation, and dispossession. The judge at this level should be able to work towards extracting the need of the person that he or she is representing;

iv. **Reconciliation of Interests and Needs,** the judge is responsible to filter the interests in the light of the need and be able to ascertain the need of the disputant that he/she is representing. The representative judge also has the responsibility to negotiate with the other party judge. The duty of the representative also involved to factor the interests of other party in the resolution. In other words, the judge is expected not only to serve his client but also to keep the other party satisfied; and

v. **Justice and Reconciliation,** when the judge is able to make the disputant come clean by pointing the weaknesses inherent in the pursuit of his/her needs. In other words, telling the offender that he is the guilty one and should be ready for justice or as the victim, should have a large heart to accept the justice and reconciliation outcome. Figure I: shows the concentric circles of interaction in HMCR.

**Figure I: Concentric Circles of Interactions in HMCR**

Sources: Onuoha (2019, 280).
These circles in Figure I: shows that complex conflict situation could be resolved through the efforts of both the disputant and his/her trusted representative. Each of the circles represents positions that ranged from stiffness to conciliation through the efforts of the disputant trusted judge/representative.

The HMRC Presiding Judges

Another unique factor, as stated, is the existence of three presiding judges in each dispute resolution session in any version of the HMCR. Evidently, there is no any approach of conflict resolution which avails a disputant the opportunity to appoint his or her judge, even in the American Jury system. The HMCR judges include a government representative (either representative from the court, police, or social welfare, depending on the government agencies handling the dispute). The roles of the representative include observing the processes, and submitting a joint-resolution to the court which in turn upholds the resolution as the judgment of the court. On the other hand, the disputant representatives serve as judges and jointly pronounce judgment, moderate the resolution processes, and co-sign the judgment sheet with the government representative. Figure II: shows Diagramme of the HMCR.

Figure II: Hybrid Model of Conflict Resolution (HMCR)

Source: Onuoha (2019, 281).

The triangle at the top of figure indicates the institutions handling the dispute resolution such as the police, court, and social welfare, indigenous among others. The arrows that point to the triangle illustrate the

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5 The judges could be more than three it all depends on the number of the disputants.
communication flow between the institution and the disputants selected judges. The down pointed arrows show the representatives of the institution handling the matter. The arrows from the base shows disputant respective judge or representative, it also depicts that the disputants appoint the judges to represent them. While the down triangle represents the three presiding judges of each version of HMCR.

Advantages OF HMRC

It is hoped that HMCR will be viable because it incorporates the cherished indigenous and religious values of the people. For instance, the presiding judges are people that enjoy the respect and trust of their respective representatives. It is hoped that due to the fact that these disputants hold their respective representative in high regards, the tendencies of accepting the verdict will be high and the reconciliation of the disputants easy (See Figure1). Furthermore, the HMCR resolves conflicts using plain language (not legal jargons) which all the disputants and judges will understand and the issue of time consuming method of adjournments over one flimsy excuses will be non-existent. It will also create a free atmosphere that reduces stage fright. This ensures that disputants enjoy relaxed minds while presenting their issues, which is presently not in operational. Its uniqueness lies in fact that it will eliminate legal technicalities and objections which naturally waste time and resources and ultimately conceal truth.6

In addition, the adversarial postures which all disputants exhibit and the capital intensive nature of servicing legal obligations, which most often, forces people to abandon their cases, will not play out. This is because HMCR saves time and money, speaks the language of the people, uses the traditional concepts and religion of the people; and allows each of the disputants the opportunity to be represented by the people they have confidence in acting as co-judges. It also creates the enabling atmosphere that heals wound. The uniqueness is that the spiritual leaders or trusted traditional representatives will not only strive to get justice done. But will also the opportunity to reorient the conscience of the people that they are representing on the need to accept the verdict and work towards restorative justice. It will also strengthen the ADR which placed emphasis on resolving conflict through negotiation, mediation, conciliation and justice while sustaining the mutual relationship that was fractured as a result of the conflict (Ige, 2017).

HMCR is individuals mending relationship centered and not state-centered. It also incorporate the believe systems of the people which they have soft spot for and appreciates. It could be liken to the Jury legal system practiced in America with little variations.7 The American Jury is the guardian

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6This is based on the notion that most of the participants in the HMCR are not legal professionals.

7The paper makes this defense in favour of HMCR based on the analysis of information it gathered from study.
of the public trust and the voice of the community’s values inside a legal system dominated by the lawyers and judges. In America there is a jury pool from which the state selects jurors. The Jury is ordinary men and women that the state recruits to help them resolve conflict in the court (Menkel Meadow, 2016). The American society came to the realization that the legal methods in conflicts and crime cases are void of human feelings and societal values, hence, the adoption of the Jury method into their judicial system as complementary. However, in HMCR, the disputants select their judges therefore making the issue of compromise highly minimized since each disputant chooses the person he or she trusts.

Envisaged Pitfalls

In spite of the laudable prospects of the HMRC, it is significant to emphasize that it is not without some challenges that are capable to undermine its efficiency and viability. Studies have shown that the processes inherent in dispute resolution mechanisms, such as the human factor and the relative weak State machinery undermine conflict resolution processes (Akume and Abdulahi, 2013). HMRC is also expected to encounter the uncooperative posture from members of the legal profession, a challenge that trails the Alternative Dispute Resolution (ADR), for fear that its effectiveness could undermine their means of livelihood (Onyema, 2013). In response to the legal cold feet, the former Chief Justice of Ghana, Georgina T. Wood (2014, xix) remarks that “we do have judges and magistrates who, in spite of the effectiveness of ADR as a case management tool, tend not to invest any time in promoting and encouraging its appropriate use.” This observation is tenable. For instance, during field work in one of the magistrate courts, a case between individuals was called up and the prosecutor informed the Magistrate that the disputant had resolved their issue and wished to discontinue with the legal exercise. The Magistrate responded, “I don’t want this court to take judicial notice that you hardly conclude a matter in this court.”8 Similar scenes were observed in various court sessions attended. Sadly, the judges and magistrates were not in any way ready to encourage ADR this is based on the fact that even minor litigations that ADR would have been the best option towards its resolution is entertained in the court.9 Apart from the attitude of the judges and lawyers in Africa, there are other challenges as the findings from a study carried out by Afrobarometer10 reveals that Ghana justice system is

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8This court is located in the High Court of Umuahia, Nigeria. The name of the judge is in the custody of the author.
9In the course of the field work the services of 8 research assistants were sent to varous courts in the area of study to ascertain the extent of ADR implementations but their findings revealed that such was not mentioned or encouraged in any way by the judges and Magistrates.
10Afrobarometer is an independent, non-partisan and pan-African research network that measures or assesses people’s attitude on political, economic and social issues in Africa. It also provides reliable data and evaluates African experience in areas of governance, democracy and
expensive, favours the rich, time consuming, corruption system, processes too
complex and technical(Osei and Aiomah, 2020). This fact shows that even with
Ghana justice sector towering credential, the formal justice system has big
question mark. This Ghana’s experience is the same with what obtains in
Nigeria as well as in other part of the African continent.

It is envisaged that the challenges which trail ADR will definitely catch up
with HMCR. On the contrary, the thesis posits that such fate will not befall
HMCR because ADR mostly operates within the corridor of the modern court
house. But HMCR has a wider scope which includes: modern court, police,
social welfare and other institutions’ which resolves conflict. If implemented
by other institutions such as the Police, and the Social Welfare undoubtedly,
the volume of conflicts which goes to the court for resolution will be
drastically reduced. It is obvious that these institutions serve as the major
avenue through which people access the court, thus, achieving the aims of
ADR. In the course of the study the opinions of people were sampled on the
efficacy of HMCR and they all embraced the model as a novel justice approach
with human feelings and prospect. However, they expressed some reservations
such as:

i. In a situation where the parties are of different religious affiliation such
as a Christian versus adherent of African Traditional Religion or Islam,
how will the HMCR be applied?

ii. How will resolutions be implemented? and

iii. What category of disputes shall HMCR resolve?

These envisaged challenges in HMCR and the avenue to circumvent them
are already captured herein. One of the safety valves put in place to address
such should it arise is called Flexibility. Flexibility in HMCR is a practical
method that allows an interface action between the FBVHM and the TVHM to
synergize to resolving conflicts. For instance, in a land issue, it is obvious that
most pastors lack the knowledge to adjudicate on such matter. In this situation
if the pastors cannot resolve it, through the Flexible Hybrid Method (FHM) the
expertise of the traditionalists can be used to resolve it but the final resolution
will rest on the pastors, vice versa. This FHM could also be employed to
resolve conflict situations between a Christian and a traditionalist or between
traditionalists and others.

The viability of the Flexibility Version of the Hybrid Model (FHM) is not
an illusion. A veritable example of its workability was demonstrated during the
resolution of the conflict between the Christians and the Ogo (cultural groups).

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quality of life. Between 1999 and 2019 it completed seven rounds of survey in 38 African
countries.

11The justice sector of Ghana was adjudged the best in Africa in 2018 and dropped to sixth
of Law Index.http://worldjusticeproject.org

12This information was extracted through oral interview from Ifeanyi kalu, February 28, 2019;
Akachukwu Ibe (55years), Legal Practitioner, Interviewed at Umuahia, February 28, 2019.

13These questions were advanced by informants within and outside the thesis scope.
In search of mutual resolution between these disparate groups, in 1996 the government of Abia state formed a conflict resolution committee. The committee composed of Christian leaders, Ogo traditionalists and representatives from the government. They deliberated and came up with mutual agreement or recommendations which the government approved as a binding code of conduct and at the same time, publish it White paper. On the issue of implementation, the HMCR makes the provision that when the verdict has been reached that the judges should sign the minutes of the proceedings and the final verdict and sent it back to the presiding judge that triggered the HMCR option. The presiding judge (or officer representing the institution who is one of the judges) in the presence of the HMCR judges shall read out the verdict and uphold them as the resolution of the court or institution. The categories of cases that could be handled HMCR shall include: family disputes, juvenile cases, assaults, character assassination, breach of contract, debt defaulting, landlord and tenants agreement, and land matters. However, there is an exception to this rule. For instance, when parties in dispute that did not meet the aforementioned prerequisites and wishes their dispute to be resolved through HMCR, they should notify the presiding Judge of their desire. The presiding Judge could give them an option of choosing between FBVHM and TVHM of HMCR (see figureII). To this end, it is the party in a dispute that chooses the method in which their dispute will be resolved.

It is interesting to note that most of the things that generate conflict in Africa in general and in Igboland in particular, are born and bred in these localities. This makes it mandatory for them to share all the characteristics of various cultural localities that gave life to them. These conflicts have ears and sentimental appeals that only respond to the cultural elements (Ikenyi, 2009). Sadly, what is seen everywhere is disenchantment from the processes of the current state-centered retributive justice pattern. More so, the contemporary environment with its conflicts dynamism calls for a viable approach to resolving and as well as potent compliment to current conflict resolution processes. To this end HMCR is recommended because this method is sensitive to the religious, cultural, and humane context of the people. Another significant pitfall envisaged by study is the uneasy road that HMCR will have to travel to the world of acceptance. Ekanola (2005, 46) describes thorns that await new invention of justice on its way thus:

Before an ideal conception of justice becomes generally accepted and entrenched in society, thus becoming conservative justice there is the likelihood that the society would witness some tension between those advocating for reforms and those benefiting from the old system.

The above assertion is right because the resistance to change is the nature of the human society. However, the motivation is that the period of rejection, criticism is the natural road to acceptance. In fact, the twin rejection and criticism inspires people of goodwill to come and strengthen problem areas.

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Similarly, HMCR amidst hiccups is poised to succeed because of the general yearning for peaceful coexistence, as the present form of conflict resolution is not living up to expectation because of its inhuman nature (Christie, 2004).

Conclusion

People, apparently are coming to the realization that the adjudication of some cases brought before the modern courts are hardly resolved to the satisfaction of the parties involved. In fact, their judgments sometimes made matters worse because emotional wounds are not in any way encouraged to heal, hence bitterness and desire for revenge reverberates. It is worthy of note that for issues of law and conflict resolution to have meaning and relevance, they must be historically, socially and culturally sensitive. The present justice system is seen as authoritarian, and alienates victims, offenders and the community who are primary stake-holders in the conflict. The Hybrid model rather than base the outcome of a case solely on the law focuses more on the processes of achieving peaceful resolution of conflicts, through justice and restoration of estranged relationships. The paper is not in delusion that HMCR is the panacea for the resolution of conflict but sees it as processes that if adopted or adapted will add humane elements in conflict resolution processes in any institution with the overall aim of strengthen social harmony through restorative justice. The hybrid model of conflict resolution emphasizes humane approach to resolving conflict based on the fact that conflict is like a mosquito that perched on testicle. The man in such situation must avoid any form of violence but must humanely get rid of the mosquito or injure himself. Conflict resolution is the means of restoring harmony between people or group with strained relationship. Furthermore, this means are series of processes that involve among other things mediation, negotiation and compromise. To this end, the hybrid model of conflict resolution therefore, recommends its process that may make conflict resolution processes and outcome mutually satisfactory to parties concerned.

Bibliography


