



WWJMRD 2021; 7(12): 35-39
www.wwjmr.com
International Journal
Peer Reviewed Journal
Refereed Journal
Indexed Journal
Impact Factor SJIF 2017:
5.182 2018: 5.51, (ISI) 2020-
2021: 1.361
E-ISSN: 2454-6615
DOI: 10.17605/OSF.IO/SNPXG

Omezue-Nnali, Eberechukwu Ekemma

Akanu Ibiam Federal
Polytechnic, Unwana, Afikpo,
Ebonyi State, Nigeria.

Egwu, Wisdom Chizitere

Akanu Ibiam Federal
Polytechnic, Unwana, Afikpo,
Ebonyi State, Nigeria.

Ekuma, Gladys Orioma

Akanu Ibiam Federal
Polytechnic, Unwana, Afikpo,
Ebonyi State, Nigeria.

Otunta Okpani

Akanu Ibiam Federal
Polytechnic, Unwana, Afikpo,
Ebonyi State, Nigeria.

Okonnnachi Ezinne

Akanu Ibiam Federal
Polytechnic, Unwana, Afikpo,
Ebonyi State, Nigeria.

Correspondence:

Omezue-Nnali, Eberechukwu Ekemma

Akanu Ibiam Federal
Polytechnic, Unwana, Afikpo,
Ebonyi State, Nigeria.

The Traditional Methods of Land Dispute Settlement in Afikpo (Ehugbo), Nigeria Vis-À-Vis Court Proceedings

**Omezue-Nnali, Eberechukwu Ekemma, Egwu, Wisdom Chizitere,
Ekuma, Gladys Orioma, Otunta Okpani, Okonnnachi Ezinne**

Abstract

Conflict started from the creation of the earth. The Holy Bible recorded that there was war in heaven—that was a dispute or conflict of interest; Conflict also resurfaced between Eve and the Serpent, God and Mankind, God and the serpent and then Man against man as in Cain and Abel and has continued till date. Whenever two or more human beings come together, especially to pursue a common objective, there is bound to be divergences of interests, values, and perspectives; and this disharmony can result to Conflict otherwise referred to as disputes. Conflicts/disputes are bound to occur in a given society, thus in order to ensure peaceful co-habitation of men within a given society, a medium was created to harmonize the disharmony among men and these are otherwise referred to as the ways of resolving conflicts. Thus, conflicts can be resolved through judicial process (Court System) or non-judicial process (this includes the Traditional methods of dispute resolution and other Alternative Dispute Resolution methods. Each of the means of resolving disputes have their respective pros and cons. Before the invasion of the British men into Nigeria, there had been some existing traditional methods of settling disputes in the respective communities in Nigerian, however in this work our scope shall be limited to Afikpo in Ebonyi State of Nigeria. In this Study, we shall consider the concept of conflict, the judicial and non-judicial means of resolving conflicts in Nigeria and specifically the traditional method of settling Land disputes in Afikpo (mostly referred to as Ehugbo by the indigenes).

Keywords: Conflict, Traditional Conflict Resolution, Judicial process, Alternative Dispute Resolution

Introduction

No two individuals can think and reason exactly the same way, thus when two or more individuals come together, and they opine in their respective ways and are unable to agree, there is bound to be conflict or conflicting interests. Juneja P. (2021: 1) identified five phases of conflict as thus: Prelude to conflict (these are factors instrumental to an arise of conflict), Triggering conflict (this is an event that triggers conflict), Initiation phase (this is when the conflict has already begun such as heated argument), Differentiation Phase (here individuals voice out the reason for the conflict) and finally the Resolution Phase (here the parties try to compromise by reaching out to explore any of the various options of settlement). It suffices to state here that where there is conflict in the home, in the workplace, in the community, in the state or country, there is fear and disharmony and no meaningful achievement can be possible in such a tensed situation, hence the need for peaceful settlement of conflict.

The concept of conflict/ dispute has been an age long concept, although it is in the negative, it has been undying and unending, hence the need to explore options for amicable settlement of disputes. Whenever there is a conflict or disagreement or dispute and a means is deployed to put that conflict to an end or to find a solution to the raging conflict, that means is called Conflict Resolution. It is trite to note that when the disputes are resolved in courts, it does not in most cases result in a peaceful termination of the dispute; this is unlike when conflicts are settled out of court.

Ngwakwe E. C. (2013, P. 126) noted that conflicts are experienced in our day-to-day life as

members of the society. He further differentiated judicial process from non-judicial process by stating that the statutory judicial processes are characterized by writing and documentations, whereas such documentation is not so essential under the non-judicial process. He further observed that traditional ways of resolving conflicts are faster and more summarized unlike the judicial method which involves the rigorous process of litigation. It was further elucidated by Nwazi (2017: 26-41) that Real estate dispute has created diverse forms of bitterness and grievance among the parties in a transaction and this may lead loss of life or destruction of properties if not properly handled.

In opposition of the traditional method of resolving conflicts, Sanni A. O. (1999, Pp. 65-68) noted that law has evolved to become an efficient means of resolving disputes rather than the crude traditional means especially when this means are unacceptable to them.

Traditional Methods of Resolving Conflicts

Before the advent of civilization in Africa there were some other ways of resolving conflicts among persons in the community. We have seen earlier on that conflict is inevitable among men because there is bound to be divergences of interest, views and approach to life. Traditionally, there are some few factors that also trigger up conflict among persons; they include land encroachment, boundary disparities, non-payment of tributes or loans, marital crisis, inter-personal relations and so many others. There can also be inter-communal crisis.

In the course book of National Open University of Nigeria, titled 'African Traditional Methods of Conflict Resolution (2021:5) it observed that Africans have rich cultural heritage which includes a long-evolved institution anchored on conflict resolution and governance of the society. These institutions include the family, palace, market, numerous associations and supernatural influences.

The family is the smallest unit of the society yet the strongest. The family heads and elders have the responsibilities of resolving such conflicts.

During the Pre-colonial era, the King's palace had much political affluence as a royal institution with a legitimate authority. Thus, their roles in dispute settlement were highly commendable.

The market institutions through their market administrators and leaders helped in the regulation of buying and selling and ensuring peaceful co-existence, this is because both rich and poor, big and small, all come to the market for their needs.

Another one is the social institutions, this includes age-grade association, professional associations (such as the guild of hunters, palm wine tappers associations etc) and even secret clubs. (Ibid).

However, with the invention of the white men education and religion, the African institutions has experienced some collapse but not in its entirety. As we shall still unravel some of the institutions that are still formidable forces used in achieving peaceful settlement of conflict in Afikpo, Ebonyi State.

The African methods of resolving conflict ensured that adequate mechanisms are put in place to totally restore peace and normalcy of the relationship previously existing between the conflicting persons or communities.

In the African setting, there are some indigenous

personalities that play vital roles in facilitating peace and ensuring orderliness in the social environment in the African society. These includes among others:

1. Kings and Chiefs
2. Elders and Family Heads
3. Age Grade Association

Kings and Chiefs

The Kings play vital roles in the kingdom, they have political influence and thus play significant roles in settling disputes among the people/subjects and inter-community disputes. The Chiefs were lesser in authority compared to the King; however, they aided the Kings in the administration of peace in the community.

Elders and Family Heads:

The Elders and Family Heads command much respect in the African society. Elders are seen as wisdom-bearers. In the family set up, the family heads are embedded traditionally with the duty to resolve conflict at the family level. The Elders who can be found at the family level, village or community levels are always seen as agents of peace using their wealth of wisdom and historic disposition.

Age Grade Association:

African societies pay attention to age, sex and status. Persons within the same age bracket form an age grade and thus a formidable force in the society and they strive in ensuring peace and resolving conflicts in the society. This Age Grade Association is still a formidable force in the Afikpo traditional setting.

In this work, we shall be examining the five traditional methods of conflict resolution that was practiced by the traditional African Society. They include:

1. Negotiation
2. Mediation
3. Arbitration
4. Adjudication
5. Reconciliation

Negotiation

This is a traditional method of settling dispute which entails co-operation and compromise. It involves bargaining until a consensus is reached. For negotiation to be possible, both parties must be ready to shift their grounds tolerably and have recourse to the pursuit of peace at their minds, the negotiating parties must also appreciate their cultural norms and ethics. This is mostly used to settle family disputes

Mediation

Here the conflicting parties willfully submit to a neutral third party-mediator to resolve the conflict. In the African setting, one person's fight is everybody's fight. Thus, any dispute once made known attract other parties to intervene for its peaceful settlement. The Mediator (s) who ought to be knowledgeable in customs and norms of the community ought to usually walk towards resolving the conflict to a peaceful end and also restoring the harmonious relationship between conflicting parties. However, the method was so difficult for the mediators in those early days.

Arbitration

This was also practiced in traditional African setting. It entails choosing an Arbiter whose special decision is binding on the parties. The Arbiter needs to be

knowledgeable in the customs and traditions of the people in order to resolve the disputes amicably, yet its challenge still remain that some parties would not accept its decision. However, when a greater percentage of the populace accepts the decision, it means it is a just one.

Adjudication

This is the process of reaching and concluding decision on issues of conflict. This is not like the court system. Here, after the offender is tried and punishment pronounced, the people sees it as a restorative measure and thus punishment was corrective and not vindictive. In this method, there are adjudicators who make decisions, witnesses are called upon and evidence adduced there from.

Fadipe N. A. (1991: P.223-237) noted that peacemaking justice was peculiar to the Yoruba of Nigeria, however this is true of the African adjudicatory system. The laws relied upon were the customary law (custom & norms). There were eminent challenges of the method then because most times, the evidences adduced would not be properly evaluated; there was no civilization, so they relied on the extent of formation that the brain could retain at that time.

Reconciliation

This was a method mostly used in resolving conflicts in Africa traditional society as it aided peace and harmonious relationship among the conflicting parties. It is a method which restores friendly relationship. In Reconciliation, parties are enjoined to forgive and forget, they demonstrate apology, display love, hugging, smiling to show peaceful resolution of conflict. During reconciliation, the conscience and psyche of the parties are aroused in order to aid forgiveness which would lead to reconciliation.

In summarizing the various methods of resolving disputes, Ezejiofor G. (2005:8-9) portrayed that disputing parties first of all try mediation or conciliation and when that process fails, they resolve to arbitration. Also, that mediation and conciliation has been used more often for the settlement of political and boundary disputes between states. And in arbitration, the arbiter enjoys the immunity from being harassed by a disappointed party to the proceeding.

Ezejiofor G. (2005:12) further noted the various advantages of arbitration which includes that it is more convenient for parties and their witnesses, it saves time and money, the Arbiters are usually experts with special knowledge on the subject matter, and their decision is final and binding on the parties. However, the Award of an arbitral panel is not still a judicial decision and can never carry such weight in its enforceability. Thus, the Arbitration Award can either be upheld or set aside by the court of law. It suffices here to state that Essa Ehugbo which is the highest body in Afikpo /Ehugbo in resolving disputes and making decrees is an example of an Arbitration Panel.

Ways of resolving conflicts (especially land disputes) in Afikpo North, Ebonyi State of Nigeria (Ehugbo)

Afikpo is an ancient town which was formerly under Abia State before it was carved out into Ebonyi State at the creation of Ebonyi State in the year 1998. Afikpo is rich in culture and have maintained certain harmless traditional practices which have helped the people to resolve their conflicts whenever there are unresolved issues in the family, village or community or even among persons

relating to land dispute.

In Afikpo, the highest decision-making body is the Essa Ehugbo Elders in Council. This body is made up of three tiers and there are:

1. Ndi Ichie: They are the Eldest and age bracket is between 60 to 75 years. (Note that this age brackets are relative based on the availability of aged male elders within each community)
2. Ugbo Etiti (This age bracket is in-between Ndi Ichie and Ohali Essa, the age is about 55years to 59 years)
3. Ohali Essa (They are the youngest grade among the Essa and the age bracket is between about 50 years to 55 years. These men are those that just migrated from the Ekpuka Eto Age Grade (The Ekuta Eto Age grade are likened as the Law Enforcement Age grade in the Ehugbo; they ensure that debts are recovered and any such assignment (s) or instruction (s) as may be delegated by the Ekpuka Essa.

Ndi Ichie

This is the main Essa Elders that make the final decision as regards several disputes such as land disputes, marital disputes, issues affecting the total peace, security and well-being of the people and many other forms of conflict that may be brought before them. This Ndi Ichie is made up of Essa that are between the age brackets of about 60 years to 75 years (in some cases). The Ndi Ichie are the ones that move to the next age grade of Onikara. The Onikara are between the age brackets of about 7\5 years to 80 years. The Onikara are the ones that are usually seen as the embodiment of the history and cultural practices of Ehugbo people, they are usually consulted by the Ndi Ichie when there are issues that requires clarifications as per historical patterns and practices in Ehugbo land.

Among this Ndi Ichie is an 'Okabue', the Okabue is a man unanimously chosen by the Essa Elders in Council who is charged with the responsibility of delivering or pronouncing the resolution/judgment of the Essa Ehugbo Arbitration Panel after they have spat saliva on his palms. Earlier on, this position of an Okabue is usually rotated among the communities in Ehugbo.

The procedure for the determination of a matter at the Essa Ehugbo Arbitration Panel is as follows:

1. Commencement of Suit:

The suit is commenced when an aggrieved party or person brings an oral complaint to the 'Ulo Ubi' – (the house where the Essa Ehugbo stays on every Eke Market Day to arbitrate over disputes). To present your case, the complainant pays N200 (Two Hundred naira) and it is called 'Ntokpo Ikpe' –meaning putting down a case. After presenting your case, the Secretary of the Essa who is usually literate records and serves a letter of invitation (which is likened to be a summon in legal terms) to the Defendant (who is the person that he/she is aggrieved against).

2. Presentation of Evidence:

After the Defendant is summoned and he makes appearance to the Essa Panel, the both parties are allowed to state their stories- that is presentation of the facts of the case. The both parties cross-examine themselves respectively and the Essa also cross-examine each party when each presents his case. Each party calls their respective witnesses who are also cross-examined. But the witnesses don't give evidence on the same day that the disputing parties give their own

testimony. Thus, whenever any of the parties is giving/tendering evidence, the Essa make announcement that any person who would intend to give evidence as witness in the matter should be out of hearing while any of the disputing party is stating his own case.

Every of the oral evidence is recorded down by the Secretary of the Essa. The Esssa Panel usually adjourned the matter to the next Eke day after taking the Oral testimony of the parties and on next day of arbitration the parties are meant to recall their oral evidence and the Essa Panel compares the second testimony with the first- this is also considered in analyzing the evidence of the parties.

3. Visit to Locus in quo (in land disputes):

After taking the oral testimonies of the parties and their witnesses, the Essa apply to visit the land in dispute. This in legal terminology is 'Visit to locus in quo'. The persons qualified to go for such visits are the selected Essa members together with the complainant, the defendant and their three respective witnesses. If, however the land was under restrictive orders by motion ex parte (that is if the Essa had earlier on placed 'Ire Nkwu', that is 'Palm front', on the hand, which signifies that no one should enter or work on the land. They said 'Ire Nkwu' has to be removed by the same Essa Group with a penalty amount of N20 in a process called 'Imebi Ire Nkwu'- that means vacating the order of restriction from entry or an order of estoppels placed on the land. During the visit to locus, each party goes round the boundary of the land in dispute together with the nominated Essa (which usually are men within the age bracket of Ohali Essa) and their witnesses; during this walk round the boundary, each party gives the history of the land in dispute and states the names of the boundary neighbors and every testimony given is recorded. Every testimony/evidence adduced in the land is compared with the evidence adduced at the 'Ulo Ubi' in order to compare the truthfulness and consistency of all the adduced facts.

4. Judgment:

After evaluating/analyzing the adduced facts, the Essa in council will reach a decision and then mandate the 'Okabue' to deliver the Essa Council's resolution (otherwise called judgment). The Okabue is duty bound to state all the resolutions as agreed by the council and if he goes outside what is agreed, he is held liable by the land and can remedy same by offering a life goat or can even be sanctioned out of the seat.

5. Appeal:

It is trite to note that each community has men of the Essa Age Grade and they form a group of the Essa in the community (this is made up of various village.) This Essa Council at the community level have the jurisdiction to arbitrate over land disputes and other disputes between person. These Essa Elders at the community level can be likened to the various High Courts holding at the various divisions for administrative convenience. Under Afikpo Traditional Arbitration, appeal from the community Essa lies to the Essa Ehugbo Elders in Council holding at the central 'Ulo Ubi' situate at the Eke Market, Afikpo which sits only on Eke days. This is unlike the community Essa which sits on Afor days of the Igbo market days. Thus, when either of the disputing parties is unsatisfied with the resolution at the Essa Community level, the unsatisfied party would appeal to the Essa Elders Council at Eke market, they are as the Supreme Court traditionally and no appeal can go thence from rather it can be appealed at the

regular courts but not as appeal but as a fresh initiation of a case.

Note that when appeal lies from Essa at community level to Essa Ehugbo Elders in Council, the matter is not started de novo (afresh) rather the Essa Elders at Eke market unravels the resolution and the community Essa Elders that made the resolution appealed against would appoint about two Essa Elders to defend their decision at the apex Essa Elders Council. Thereafter evaluating the rationale behind the said decision, the Essa Ehugbo Elders would then give their final resolution/judgment which is either to uphold, upturn or vary the decision of the lower chamber of the Essa Elders at the community level by adding more resolution, these measures are put in place to ensure that justice is conspicuously done in the eyes of the majority of the people.

6. Rationale for each Resolution:

It suffices to note that when Essa Ehugbo at various levels is arbitrating over a matter, they have this guiding principle of equity, good conscience and fairness. They have this mindset that there is an invisible God 'Chi' who is Judge of All and who is able to strike them dead if they are not equitable enough or if they take bribe against an innocent party.

Conclusion

Having carefully analyzed the subject matter on the traditional methods of resolving land disputes in Ehugbo, we have found that the methods adopted by the Ehugbo traditional community in settling land dispute is in pari passu with the conventional court proceedings as practiced in our Nigerian courts. It therefore suffices to state that the Resolution of Essa Ehugbo Elders in council should always be esteemed highly because of its observance of fairness, equity, fair hearing and sound judgment executed with the fear of the Supreme God. This research work portrays to us that conflicts can be effectively resolved without going to court and this Afikpo traditional method of resolving land disputes is as effective as the Court system and saves time as well. We shall however engage in further research as to explore the other kinds of disputes that can resolved by the Essa and the Ekpuka Eto Age Grade, we shall also seek to unveil the roles that the different age grades play in order to ensure peaceful co-habitation of men and women in the society.

References

1. Ezejiofor G. (2005). *The Law of Arbitration in Nigeria*. Longman Nigeria plc, Ikeja, Nigeria.
2. Fadipe N. A. (1991). *The Sociology of the Yoruba*. Ibadan University Press, Ibadan, Nigeria.
3. NOUN (2021). *African Traditional Methods of Conflict Resolution*. Social Sciences. Course Code PCR 831 of National Open University of Nigeria. www.nou.edu.ng/sites/files
4. Nwazi J. (2017). Assessing the Efficacy of Alternative Dispute Resolution (ADR) in the Settlement of Environmental disputes in the Niger Delta Region of Nigeria. *Journal of Law and Conflict Resolution*. 9 (3), 26 -41, DOI: 10.5897/JLCR2016.0254. <http://www.academicjournals.org/JLCR>
5. Juneja P. (2021). *Understanding Conflict- Meaning and Phases of Conflict*. Management Study Guide Presentations.

<https://www.managementstudyguide.com/understanding-conflict.htm>

6. Ngwakwe E. C. (2013). African Customary Law: Jurisprudence, Themes and Principles. Ave Maria Academic Publishers, Nigeria.
7. Sanni A. O. (1999). Introduction to Nigerian Legal Method. Kentel Publishing House, Ile-Ife, Nigeria.
8. Voice Recordings from Interviews of different Elders in Ehugbo (Afikpo)