



Alternative Dispute Resolution

Multi-Door Courthouses



Security, Justice and Growth

DFID Department for
International
Development

**BRITISH
COUNCIL**



Multi-Door Courthouses offer a non-traditional method of resolving disputes

DFID Nigeria's Security, Justice and Growth (SJG) programme worked to improve access to, and the quality of safety, security and justice for poor people and their livelihoods.

Through the SJG programme, the United Kingdom's Department for International Development (DFID) and Nigerian partners were working to realise the values, principles and goals contained in the United Nations Millennium Summit Declaration: peace, security, development, poverty eradication, human rights, democracy, good governance, protecting the vulnerable and meeting the special needs of Africa.

The SJG programme was organised into three components: security, access to justice and growth. It was rights based, working to enhance all rights, but especially equality rights (gender), and was supporting those combating corruption. It promoted inter-agency and state civil society co-operations and sector-wide activities.

INTRODUCTION

to Multi-Door Courthouses

In the states where the SJG programme has worked, it has focused on improving the current legal and regulatory environment for the private sector to both start-up and expand its economic activity. To this end, it has supported the creation and/or expansion of court connected Alternative Dispute Resolution (ADR) centres known as **Multi-Door Courthouses**, in Lagos, Abuja and Kano states on the basis that:

- Benefits to micro, small and medium enterprises (MSME) will accrue if quicker and cheaper forms of redress are available rather than through the conventional courts, both in terms of sustainability and growth and in the start-up of new businesses
- If firms start, are sustained and grow there will be more opportunities for the unemployed
- If non-oil private sector growth is encouraged there will be a wider range of goods and services available to the general populace

Underpinning the project is the belief that commercial Alternative Dispute Resolution mechanisms can provide real benefits for the private sector on the assumption that:

- The process is potentially far quicker than recourse to courts of law
- The process is cheaper than litigation
- There is an attempt to maintain the relationship between the parties
- Recourse to ADR mechanisms relieves pressure on the courts

AIM: The aim was to support the development of commercial ADR mechanisms that can provide real benefits to the private sector.

Alternative dispute resolution is not a new concept within Nigeria. Mediation was one of the favoured methods of resolving disputes long before the arrival and implementation of the British adversarial-based legal system.

What is ADR?

Alternative Dispute Resolution (commonly known as 'ADR') is the term given to various methods of resolving disputes, in lieu of the traditional adversarial litigation process.

What are 'court connected' Multi-Door Courts?

These are centres for ADR, named Multi-Door Courts (MDCs), that are independently run and managed, but are attached to a specific court (in the case of Kano, Abuja and Lagos - the High Court of each respective state). They have the benefit of offering different 'doors' for resolving disputes in respect of cases that may or may not already be within the court system.

How does a matter come before the Multi-Door Court?

There are two ways in which a matter can come before the Multi-Door Court:

- Via a judge who can refer an existing case that he/she deems suitable for ADR. Cases are referred to the MDCs via the High Court and occasionally the Magistrates Court. These are known as '**court referred cases**'. Once resolved, these cases are sent back to the referring court in order for the 'terms of settlement' to be sealed by the referring judge; or
- Parties or a party will apply directly to the Multi-Door Court for resolution of their dispute, with or without having first commenced court action (usually without). These are known as '**walk-in cases**'.

What is an ADR judge?

An ADR Judge is a High Court Judge, who has been appointed by the Chief Judge of the relevant state to oversee all matters that are brought before the Multi-Door Court. Their roles and powers vary from state to state but all have the power to endorse agreements reached in cases that have come before the

Multi-Door Court, thus ensuring that any agreement reached is given the same status as full judgments of the High Court.

What is the legal status of a case that has come before the Multi-Door Court?

If a court referred case is resolved before the Multi-Door Court, the 'terms of settlement' are then sent back to the referring judge who will endorse the settlement as a **sealed order of the court**.

If a '**walk-in**' case is resolved, the ADR judge will endorse the 'terms of settlement' thereby giving full legal weight to a matter which is most likely to have never been litigated. This has an invaluable advantage for both parties as the ADR process, if successful, will have resulted in parties obtaining an order from a High Court judge ensuring that the 'terms of settlement' will be followed.



In both cases if a party defaults on the 'terms of settlement', the aggrieved party can seek to enforce the order through the High Court.

Does litigation have to be commenced in order for parties to use the MDCs?

No. In fact, most 'walk-in' cases have not been litigated. If litigation has commenced, parties can still go the Multi-Door Court and seek its services usually through a court referral by a judge.

Do parties need to be legally represented before the Multi-Door Courts?

No. There is no requirement that parties need to be legally represented, indeed many are not. Equally, parties who are legally represented are also able to partake in the ADR process at the MDCs.

The benefits of court connected ADR schemes such as the Multi-Door Court-houses are:

- Distrust of new and unfamiliar processes can be reduced because of the involvement and oversight of the judiciary

- A fuller range of choice or 'doors' for resolving disputes are made available to litigants
- For members of the judiciary, MDCs are a means of decongesting their caseload, allowing them more time to deal with other cases effectively thereby increasing productivity and improving access to justice for litigants
- MDCs provide flexibility in both avoiding and returning to litigation
- Parties are given the opportunity to arrive at solutions which are mutually and commercially acceptable and which may be beyond the scope of the court to arrive at
- Agreements can be recorded as judgments of the court and enforced through formal court mechanisms

The Benefits of ADR:

- It is primarily a voluntary process
- It avoids the win-lose, 'winner takes all' culture of litigation, where relationships tend to suffer
- It tends to be quicker and, in most cases, a less expensive mechanism for resolving disputes
- It avoids the inflexibility and rigidity of court procedures
- It provides a greater option for parties to conduct cases without legal representation and therefore creates greater opportunities for retaining control
- Due to its consensual nature it can offer a superior resolution than court judgments
- It focuses on real needs rather than strict rights and obligations under the law
- It is less easy for more powerful or wealthy parties to delay and 'wear down' the opposition

What are the services offered at the Multi-Door Courts?

The MDCs offer 3 main routes through which to resolve disputes:

**Arbitration
Mediation
Early Neutral Evaluation (ENE)**

ARBITRATION

A formalised setting where participants present legal arguments and evidence to an appointed arbitrator who will arrive at a binding decision, termed an 'award', the entire proceedings, including the award, are confidential.

Arbitration is a much more formalised method of ADR. In order to make use of arbitration there will almost always be an arbitration clause within a contract that both parties would have agreed to.

The process for selecting an arbitrator is usually specified within such a contract for example, someone nominated by the Chartered Institute of Arbitrators, which is an organisation founded in London, that has chapters and branches all over the world, including one in Lagos.

Arbitration also follows a set procedure which is more court-like in its process both prior to and during the arbitration itself. Full legal arguments are presented and the proceedings should be fully recorded and transcribed.

Parties must follow the rulings of the Arbitrator including any award set by him/her. Arbitration is particularly well-suited to commercial disputes, as, unlike court proceedings which are open to the public, all arbitrations are conducted in private and the terms of settlement will remain confidential.

Arbitration can also put parties in the position that they would have been had things gone according to plan-as opposed to mediation, which can involve an element of 'horse-trading'.

MEDIATION

An informal and voluntary process in which a neutral third party helps disputants reach a mutually acceptable agreement. The agreement is then endorsed by an ADR judge or the referring judge (if court referred) and is enforceable as an order of the High Court.

Mediation involves the parties to a dispute outlining their grievances, with the oversight of an experienced and neutral mediator, whose role is to assist the parties to come to an agreement.

The process is more informal than arbitration, and does not rely upon traditional court-based procedures.

The process is entirely voluntary and the parties may withdraw at any time.

Lawyers can take part in the mediation process but parties do not require legal representation in order to make use of this service.

EARLY NEUTRAL EVALUATION (ENE)

An impartial assessment of the merits of a case, with the evaluator providing an advisory opinion as to settlement value and strengths and weaknesses, and/or assistance with settlement negotiations.

To date, mediation has proved to be the most popular form of ADR within the MDCs.

This involves a case being looked at by an individual third party (an Evaluator) and a view is then given as to the likely outcome or on a specific point of law.

The opinion is non-binding and the parties can use it to determine how to proceed or as the basis for settlement.

ENE is therefore a type of pre-trial review but without the need for parties to have issued proceedings at Court.

The Evaluator is selected on the basis of their expertise.

Parties do not need lawyers to make use of this service, but, if they choose to do so, they can be legally represented.



How each stage of ADR works

The main stages common to all 'doors' are:

1	<p>Involving filing of Request Form, Statement of Issues by the Applicant, and Submission Form and Statement of Issues from the Respondent.</p> <p>Within 7 days of filing a Request Form or receipt of a referral from the court, a Notice of Referral is sent to the other party, along with a Submission Form and a copy of the Applicant's Statement of Issues.</p> <p>The Respondent then has 7 days to submit the Submission Form to the MDC along with four copies of the brief Statement in Response.</p>
2	<p>Once the Statement of Issues and Statement in Response has been filed, the Registrar within the MDC assigns the matter to the Dispute Resolution Officer (DRO) who conducts a preliminary screening of the matter to determine such matters as the nature of the claim, relief sought and the most appropriate method of ADR.</p>
3	<p>A pre-session meeting is held once the appropriate door has been assigned where the DRO explains the ADR process and procedure to the parties.</p> <p>A list of Neutrals is also given to the parties at this stage and it is their choice as to whom they decide to appoint as a mediator from this list. They may be guided by the DRO if necessary.</p> <p>Parties then sign a confirmation of attendance form and a confidentiality agreement.</p>
4	<p>An ADR session is scheduled and convened once the Mediator/Arbitrator has signified consent.</p>
5	<p>If the ADR session is successful the DRO will write out the terms of the confidential agreement and it will be passed to an ADR judge for sealing (or the referring judge if it was a court referred matter).</p> <p>If the ADR session is unsuccessful the matter is either sent back to court (if it was court referred) or, if it was a walk-in matter, parties can then decide whether or not to commence legal action.</p>

The Multi-Door Courthouses

The SJG programme has supported and been actively involved in the Multi-Door Courthouses in Abuja, Kano and Lagos State

What types of cases come before the Multi-Door Courts?

Each MDC has developed and continues to develop its own area of focus:

- As the **Lagos MDC** is located in one of the main commercial cities within Nigeria, it continues to attract large numbers of commercial cases, involving multinationals as well as smaller and medium size enterprises.
- **Abuja MDC** also attracts a mixture of cases ranging from commercial, land and contract matters to education and employment law disputes.
- **Kano MDC** has only been in existence for 3 months but initial figures indicate that it is similarly hearing a variety of disputes, mainly concentrated around commercial, debt, land and contract matters.



Lagos Multi-Door Courthouse (LMDC)

The Lagos Multi-Door Courthouse (LMDC) was established on 11 June 2002, as a public-private partnership between the High Court of Justice, Lagos State and the Negotiation and Conflict Management Group (NCMG), a non-profit private organisation. It was the first court-connected Alternative Dispute Resolution Centre in Africa. The SJG programme has been assisting the LMDC for several years.

To date the SJG programme has contributed the following to the LMDC:

- Refurbishment of the LMDC office space
- Training of Magistrates in ADR
- Training and international accreditation by the Centre for Effective Dispute Resolution (CEDR) of LMDC staff and other stakeholders
- Computer equipment
- IT consultants to implement a website and internal network
- A generator for the exclusive use of the LMDC
- Training and workshops for the senior staff of the LMDC in the construction of the Network of MDCs

- Training for lawyers
- Training and workshops for High Court judges
- Training for staff members to ensure internationally accepted best practice procedures are followed

LMDC's stated objectives are to:

- Enhance access to justice by providing alternative mechanisms to supplement litigation in the resolution of disputes
- Minimise citizen frustration and delays in justice delivery by providing a standard legal framework for the fair and efficient settlement of disputes through Alternative Dispute Resolution (ADR)
- Serve as the focal point for the promotion of ADR in Lagos State
- Promote the growth and effective functioning of the justice system through ADR methods

Lagos Multi-Door Courthouse Law

In May 2007, with the support and assistance of the SJG programme, the Lagos Multi-Door Courthouse Law was enacted. This legislation encapsulates all the ideals of the organisation and provides a legal framework for its operations. The Act seeks to cement and further enhance the status of ADR as a concept, and the LMDC as the centre for ADR, within the State of Lagos. It is groundbreaking in its scope, and goes much further in giving authority and weight to the ADR process than that of other legal jurisdictions, including that of England and Wales.

Since 2005 the case load of the Lagos MDC has grown by almost three times.

Lagos Multi-Door Courthouse Law includes:

- The creation of ADR judges with powers to compel an unwilling party to take part in the ADR process in situations where at least one of the parties to a dispute is willing to seek ADR
- Ensuring that all 'terms of settlement' are enforceable as orders of the High Court, thereby giving legal weight to agreements which may not have ever been litigated in

addition to providing security for parties that the ADR process, if successful, will result in a legally enforceable judgment of the High Court of Lagos

- The Multi-Door Courthouse model of the LMDC has lent itself to replications in other jurisdictions such as Abuja and Kano and in other states where the judiciary have indicated an interest in having an MDC established

The first mediation case at the LMDC took place in December 2002 and was successfully resolved within 3 hours, having been on-going in the courts for over three years.

1

Case Study 1-Lagos

A lawyer who had received training in ADR at the LMDC was instructed by a client who was being accused of copying a handbag design. The handbags were seized as litigation commenced. The design was not registered and therefore technically her client's case was meritorious, indeed, there was a court precedent confirming this position. However, it would take in excess of 10 years before the Supreme Court was able to rule definitively in the case. After receiving training at the LMDC the lawyer met with the Claimant's counsel and suggested settling the matter which he agreed to provided her client compensate his client. She informed her client that he had excellent prospects of success if the matter continued in court but as a businessman, her client sought a practical and speedy resolution to the matter. As a result, the matter settled and potentially lengthy litigation proceedings were avoided.

2

Case Study 2-Lagos

The LMDC resolved a case involving the former Vice President of Nigeria, Dr Alex Ekwueme, who was a party to a contract involving the sale of land in his capacity as Chairman of an investment corporation. A dispute arose with the corporation and the estate agents and the matter was subsequently litigated. It was before the courts for 17 years until the trial judge referred the matter to the LMDC for possible resolution. At the LMDC the matter was recommended for mediation and the parties and their counsel attended a session, starting at 10.00am. By 8.30pm that same day, the parties had signed 'terms of settlement' and the matter was successfully resolved, after 17 years of litigation.

case study

Abuja Multi-Door Courthouse (AMDC)

Since 2006 the case load of the Abuja MDC has grown by more than three times.

The AMDC was formed in October 2003. It is based within the Abuja High Court complex and is now funded by the Abuja State judiciary through its annual budget.

To date SJG has contributed the following to the AMDC:

- Training of Magistrates in ADR
- Training and international accreditation in arbitration and mediation of AMDC staff by the Chartered Institute of Arbitrators (CIArb) and the Centre for Effective Dispute Resolution (CEDR)
- Computer and technical equipment
- A generator for the exclusive use of the AMDC
- Training and workshops for the senior staff of the AMDC in the construction of the Network of MDCs
- Training for lawyers
- Refurbishment of the AMDC's office space

The aims and objectives of the AMDC are:

- To provide enhanced, timely and cost effective access to justice which could reduce or eliminate citizen frustration
- To supplement the avenues for justice by making available additional doors through which disputes could be resolved
- To develop the "Managerial Judges" concept and design how best settlement could be achieved amongst litigants
- To utilise the immense resources of retired judges through services in mediation, arbitration and other ADR mechanisms

The AMDC is underpinned by a statutory framework that is based within "The Multi-Door Courthouse Mediation and Arbitration Rules 2003" that was made pursuant to 259 of the Constitution of the Federal Republic of Nigeria.

case study

1

Case Study 1-Abuja

A magistrate referred a criminal matter, which was ostensibly a contractual dispute. The case involved two friends. Person A said he would facilitate contracts for Person B on the basis that Person B paid Person A N1million to secure these contracts. The payment was made but the contracts fell through. The police had little evidence but the matter was nevertheless brought before the Magistrates Court. The Magistrate concerned felt the matter was suitable for mediation and referred it to the AMDC. The matter was resolved within one full mediation session.

2

Case Study 2-Abuja

The Claimant was a Senator at the time the action commenced. The matter involved a tenancy dispute between the Senator and his tenant and had been in court for over 5 years before being referred to the AMDC.

It was resolved at its first sitting in the AMDC. One of the fundamental reasons the case was resolved with such rapidity was that it became apparent during the course of the mediation that there was a 'status' issue-with one side perceiving that his position and authority had not been fully acknowledged by the other. This was the reason that matters had continued in court and, unlike mediation, the formality of court proceedings did not give an opportunity for this issue to be raised.

Kano Multi-Door Courthouse (KMDC)

The Kano Multi-Door Courthouse (KMDC) opened on 20 January 2009. It is a court connected alternative dispute resolution centre located within the premises of the Kano High Court of Justice.

Funding of the setting up of the KMDC comprised N100 million from the Kano state and N100 million from the Security Justice and Growth programme. The Justice Sector Reform Team, established in Kano State, identified various projects that required implementation within the State's judicial services, including the establishment of the KMDC.

To date SJG has contributed the following to the KMDC:

- Refurbishment of the KMDC office space including providing technical equipment, office equipment and furniture
- Training of staff and stakeholders in ADR processes
- Computer equipment
- IT consultants and technical expertise
- Training and workshops for the senior staff of

the KMDC in the construction of the Network of MDCs

- Funding for initial research into the opening of the KMDC, including a business plan

The aim of the KMDC is to provide easy access to justice, reduce court congestion and to maintain cordial relationships amongst its users.

The KMDC is underpinned by a legal framework, which lends it a legitimacy supported by the Kano High Court. The KMDC has been established with the functions of arbitration, conciliation, mediation and other forms of dispute resolution as provided within the Kano State Arbitration Law ss22 and 116, in addition to the **Mediation and Arbitration Rules 2008**.

One of the current Kano State ADR judges has recently recommended reform proposals in respect of the powers of judges and the KMDC, which includes empowering judges to compel parties to attend the KMDC when a judge deems it appropriate. The Chief Judge is currently considering these proposals and these are due to be promulgated shortly.

1

Case Study 1-Kano

Two businessmen were in a two year dispute over monies owed. The Claimant businessman was owed N12.9 million by the Defendant as a result of a business transaction. The Claimant brought the matter to the KMDC. The case was resolved in one sitting, with the Director of the KMDC acting as mediator. The Defendant initially offered to pay the amount back over a two year period but the Claimant wished for it to be paid within 1 year. The Defendant agreed to pay the sum of N500,000 per month. As a result protracted court proceedings were avoided and both businessmen were able to re-build their commercial relationship.

2

Case Study 2-Kano

The Claimant in this 'walk-in' case approached the KMDC as his property was adjacent to a disused property and other neighbours/people in the vicinity were using it to dump rubbish. The KMDC sent out a notice to the Respondent owner of the property who attended a pre-session hearing at the KMDC. The Respondent was unaware that rubbish was being dumped at the property. The Respondent signed Terms of Settlement, (agreeing to develop the land) in the pre-session hearing, obviating the need for a formal mediation. The KMDC wrote to REMASAB (the Refuse Management and Sanitation Board) requesting that they clear the refuse on the property which was carried out within one day.

case study

The Network of Multi-Door Courthouses

The Network of Multi-Door Courthouses ('the Network') was formed in May 2008 with the aim of providing a forum for all the existing MDCs to come together and share ideas and experiences as well as to ensure that internationally accepted best practice procedures are followed within all the MDCs.

It will act as a source of information to new and existing MDCs, ensuring that standardised working methods and approaches are followed.

The Network is based in Abuja and has a governing structure, including a Board of Trustees.

The SJG programme funded and facilitated workshop sessions with existing MDC senior staff with a view to ensuring that the Network

fully represented the ideals and aims of the current Multi-Door Courthouses in addition to ensuring that internationally accepted practices are followed.

As a result, the Network is currently reviewing its constitution and is in the process of forming a website and brochure outlining its aims and objectives.

The Network has already been informally approached by Akwa-Ibom State with a view to assisting with the development of a court connected Multi-Door Courthouse.



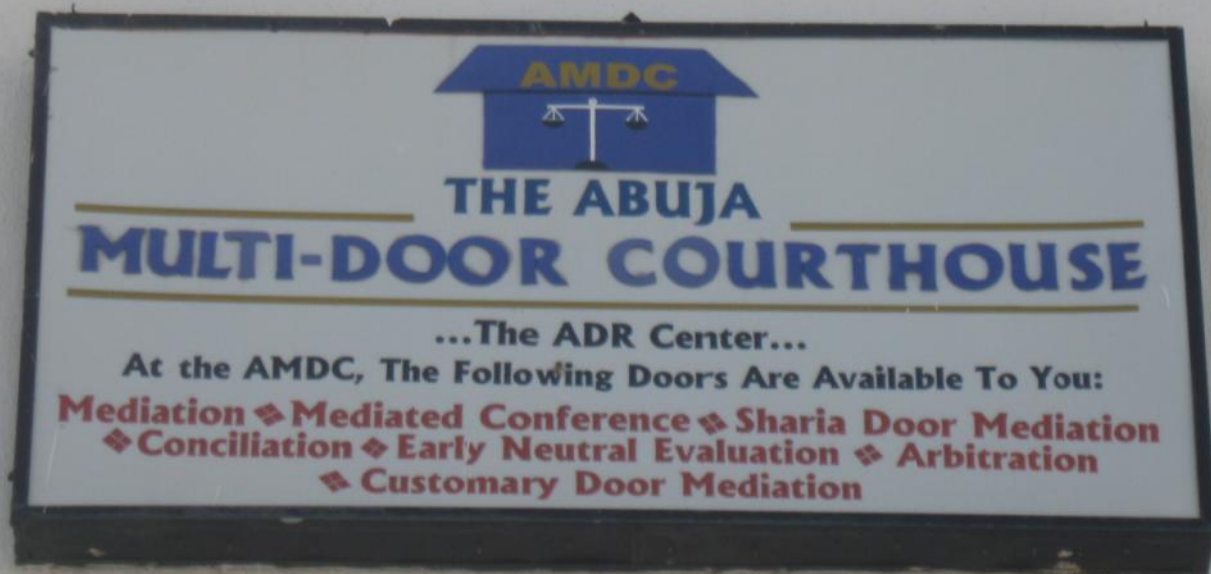


Impact

1. In total, in excess of 3000 cases have been before the MDCs - the majority of which have been concluded successfully encouraging the maintenance of commercial relationships between parties and individuals.
2. Statistics taken from baseline indicators of success have shown that each SJG funded training session held for the judiciary has resulted in a marked increase in court referred cases to the MDCs.
3. The expansion and refurbishment of Abuja and Lagos MDCs.
4. The establishment of Kano Multi-Door Courthouse.
5. The provision of IT facilities including websites and internal network systems reducing court congestion and allowing for greater access to justice for all.
6. The quality of training of MDC staff and stakeholders, including lawyers, the judiciary and commercial organisations has led to a direct increase in referrals to the MDCs.
7. The accreditation of senior staff at the MDCs by CEDR and CIArb led to an increase in confidence of staff members to conduct mediations and arbitrations which, in turn, has led to a significant increase in the actual number of mediations and arbitrations.
8. In Abuja, the SJG sponsored training for Magistrates led to a corresponding increase in referrals to the AMDC by Magistrates-work is now underway on strengthening the legislative framework allowing for specific powers of referral to the AMDC from the Magistrates Courts.
9. As a direct result of the success of LMDC, the Kano State Judiciary was receptive to the creation of the KMDC and supporting legislation.
10. The enactment of the '*Lagos Multi-Door Courthouse Law*' - a pioneering piece of legislation in respect of ADR that has yet to be seen in many other legal jurisdictions, including that of England and Wales.
11. The formation Network of Multi-Door Courthouses - which will serve to regulate 'best practice' of MDCs within Nigeria-approaches have already been made to the Network by other states within Nigeria who wish to establish MDCs. It will also serve as an advocacy group for the intents of MDCs.

OUTCOME:

Three Multi-Door Courthouses are now operating and offer mediation as a viable alternative to litigation.



Launched in 2002, the SJG programme aimed to contribute to the achievement of the Millennium Development Goals:

- By promoting strong partnerships among governments, civil society organisations and the private sector in pursuit of security, justice, the rule of law, development and poverty eradication
- By promoting gender equality and the empowerment of women as effective ways to combat poverty and hunger
- By promoting a legal and regulatory framework that encouraged non-oil economic growth to give young people a real chance to find decent and productive work rather than become lost in a life of crime

The SJG programme, supported by DFID Nigeria and implemented by the British Council, successfully came to a close in 2010.

