

Episode 9: The LMDC Journey under the leadership of Mrs Adeyinka Aroyewun

By

Chinwe Stella Umegbolu

PhD Researcher

University of Brighton

Business and Law

c.umegbolu@brighton.ac.uk

ABSTRACT

I was delighted to welcome Mrs Adeyinka Aroyewun, the Director and Member of the Governing Council at the (LMDC); an International Mediator of the Centre for Effective Dispute Resolution (CEDR), United Kingdom (UK), Member of the Chartered Institute of Arbitrators (CI Arb) UK. She has mediated over seventy (70) disputes and has gained experience in a comprehensive range of disputes, such as Commercial Disputes, Financial/Banking, Property, Employment and Family Disputes. In this episode of EVA, we critically discussed the following questions - What prompted the birth of the LMDC in the Nigerian Judicial Landscape? What are the advantages of using the LMDC and its impact so far? How does the Court-Connected ADR work? How can parties commence or initiate matters at the LMDC? With the recent challenges faced at the LMDC, what is the resultant effect of these challenges or occurrence?

We concluded by touching on these challenges caused by the COVID-19 Pandemic and END SARS peaceful protest hijacked by hoodlums, which led to the burning down of LMDC. Despite these challenges, the LMDC has continued to render services remotely to their users.

Keywords: Alternative Dispute Resolution, Multi-Door Courthouse, LMDC, ODR, Access to Justice, Court-Connected ADR, COVID-19 pandemic, END SARS.

INTRODUCTION

WHAT PROMPTED THE BIRTH OF THE LMDC?

To properly appreciate the circumstances that warranted the indigenous masterstroke intervention that the Lagos Multi-Door Courthouse is today, we painted a vivid picture of the Justice System before having the LMDC there.

Before the emergence of LMDC, the Nigerian Judicial system was not in a desirable state. Hitherto, the acknowledged means of dispute resolution was litigation. It reigned this adversarial culture in the consciousness of the citizenry by default, that once a dispute ensues the average person knows no better option than to resort to litigation. As a result, the tremendous growth in the population, coupled with the increase with enlightenment, business activities, and the litigation culture's fixation, and it was only inevitable that caseload will take an upper turn and spiral out of control.

However, not many would have predicted an alarming rate at which judicial caseload was overflowing, and judges could not single-handedly cope with the unenviable challenge despite their best effort. For instance, a Judge in the Lagos State Judiciary reported a thousand cases in her docket, which existed some cases that had spent twenty-nine years in court.

Inordinate delay and an irredeemable backlog of cases were inevitable with this kind of scenario in the grand scheme of things. Confidence was lost in the system, and it also took a toll on the Lordships as parties were driven asunder even before the judicial pronouncement. So, in a bid to help out with the Lagos Judicial system and keep with the global trends, the Alternative Dispute Resolution (ADR), notably the Multi-Door Courthouse (MDC) as an institutional repository of ADR mechanisms was mooted by the Harvard Professor Frank Sander and expounded upon at the 1976 Dean Roscoe Pound Conference.

On the other hand, what the Negotiation and Conflict Management Group (NCMG) founded by Mr Kehinde Aina - did was to spearhead this MDC concept and make it a reality in Africa with the collaboration of the Lagos State Judiciary the dream became a reality on June 11th 2002. The LMDC became the first Court-connected ADR Center in Africa. We then delve deeper into some of the specific elements and advantages that constitute the LMDC while highlighting its impact so far.

WHAT ARE THE ADVANTAGES OF USING THE LMDC AND ITS IMPACT SO FAR?

We elucidated that though the LMDC has not reached its desired height, publicity is not as much as they would want it to be. They also have the challenges of settling all disputes but found out that it is not possible as they cannot settle everything. However, we pointed out that some measures of progress have been made in about seventeen (17) years of existence. It is pertinent to point out that the LMDC are the touch bearers, the trailblazer, the first of its breed and because of that, other States of the Federation of Nigeria have followed suit.

Pioneering Role of the LMDC

We revealed for the first time one of the impacts the LMDC has made is that it triggered a phase of replication base by various States. For example, Abuja, Enugu, Akwa-Ibom, Rivers, Cross River, Delta, Ogun, Oyo, Kaduna, Ondo, Bayelsa, Abia, Edo, Borno and Katsina State. They all established their MDC following the Lagos State Model, and even in states where there are no MDC; there existed different kinds of ADR Institutions and Mediation Centres.

For these reasons, it is irrefutable to say that without the pioneering role of the LMDC none of the States would have ventured into doing something about ADR. This alone is a great testimony to the impact that the LMDC has made so far since its establishment.

Expanded Access to Justice:

Additionally, the LMDC has successfully established itself as a dependable and effective alternative litigation with the availability of access to justice through its dispute resolution patterns that are timely, cost-effective and user-friendly. Thus, the arrival of the LMDC has expanded access to justice in Lagos State and changed the judiciary's face forever. The courthouses have now been transformed into a one-stop dispute resolution centre where a dispute has a real choice from different mechanisms, including litigation.

The High Court Civil (H.C) Procedure Rules 2012 Review:

Subsequently, during the (H.C) Civil Procedure 2012 review, the LMDC suggested making the High Court Registry a one-stop dispute resolution centre. That is, if parties come to the High Court Registry, from that point, they can let them know whether it is litigation or mediation or negotiation that is suitable in resolving their respective disputes.

Undoubtedly, the (H.C) of Lagos Civil Procedural Rules established the ADR track on December 2012, the ADR track in the Ikeja Judicial Division, the ADR track in the Lagos Judicial Divisions and all the cases coming directly from the High Court will be screened by the LMDC. Once determined, it is stamped, and the parties will have to come to the MDC to be heard.

Timeliness:

Timeliness is one of the impacts of the LMDC on other States. Though there is still room for improvement, several mediations took just one (1) or two (2) mediation sessions or sittings to resolve. For example, in the 2017 Lagos Settlement Week, a banking case in Court for about 26 years was settled at two (2) mediation sittings. Then a banking case with a claim of over 1.6 Billion Naira equivalent to 3,067.66 Pounds Sterling was settled in two (2) mediation sittings. Conversely, a case for dissolution of marriage was taken, and both parties withdrew their Petitions and Reliefs. In the same 2017 settlement week, about 4.5 Billion Naira equivalent to 8,637.82 Pounds Sterling monetary claims were recovered, representing about 14% of resolved matters.

However, in 2018 Settlement Week Programme, about 24.3 Billion Naira equivalent to 46,698,354.90 Pounds Sterling in monetary claims were recovered. Also, a case on the Administration of Estate has been in Court for nearly 29 years. However, it was settled in two (2) mediations sittings. Also, a banking case with a claim of over 1.8 Billion Naira equivalent to 3,457,910.70 Pound Sterling was settled.

Following through, in 2016 and 2017 Settlement Week, 31.3 Billion Naira equivalent to 60,060,577.79 Pounds Sterling was recovered in claims, and also the LMDC impact can be gleaned from saving some legal fees. Management time for corporate litigants, court time, counsel time, the resources of the court, things like contingent reliability risk, reputational risk, other sheer inconveniences associated with serving litigation in financial terms, which we have computed with the colossal amount of savings made for the litigants in counsel and judicial system.

User Friendly:

With the help of the informality, the affairs of the Courthouse has played a huge role in ensuring a user-friendly and affordable LMDC, where parties who are unable to afford the services of the LMDC can apply for fee review or even pro-bono. It is essential to point out the LMDC has never turned away indigent disputants, unlike in litigation where parties will have to struggle with the high cost.

Preserves Relationship:

We highlighted another significant aspect of the LMDC: it preserves the relationship of the parties from the onset, unlike litigation where the battle line is drawn and the parties, their respective businesses, social and other various relationship are ruptured. However, there is credible, intense competition for business retention and securing of more clients in this age of globalisation rather than lose out in this respect. LMDC has done well in resolving disputes, but also in reconciling parties. They desire great fulfilment from seeing either two or more estranged parties now coming to an agreement, shake hands and continue with their business relationship, and that is what litigation cannot give. Even more so, when the parties resolve their respective disputes via litigation, oftentimes, the relationship might not be as cordial as it was before.

HOW DOES THE COURT-CONNECTED ADR WORK?

There are about three main reasons why the LMDC is referred to as a Court-Connected dispute resolution centre - which is as follows:

- 1) It is situated in the High Court (H.C) of Lagos;
- 2) The Judges and the magistrates get to refer their cases;
- 3) Even with the walk-in cases that are not referred by the Judge when the parties sign the Terms of Settlement (TOS), it is sent to the ADR Judges, and they will enter it and endorse it as a Consent Judgement in Court. The above-stated submission is the reason why the LMDC is referred to as a Court-Connectivity or Court-connected ADR.

HOW CAN PARTIES COMMENCE OR INITIATE THEIR MATTERS AT THE LMDC?

On how parties can initiate matters at the LMDC, we pointed out that these can be done in three ways-

Court Referral: Both a High Court Judge or Magistrate refer cases to the LMDC.

Walk-Ins: A Party can walk-in to the LMDC and initiate matters.

Validating the above-stated position is Section 4 of the LMDC Law 2007. Once parties that settled in other institutions reach the TOA, they can bring it to the LMDC through the ADR Judge, who will enter it as a Consent Judgement.

Direct Intervention:

In this category, the LMDC can directly intervene in cases or matters of high public interest. For instance, maybe strikes amongst others, the LMDC can intervene and write a letter to the people concerned, as well as to the government and invite the parties to come to negotiate their matters at the MDC.

WITH THE RECENT CHALLENGES FACED AT THE LMDC, WHAT IS THE RESULTANT EFFECT OF THESE CHALLENGES OR OCCURRENCE?

Prior to the COVID-19, the LMDC provided virtual interactions but had done that on a small scale but with the pandemic made it glaring and apparent that the Online Dispute Resolution (ODR) needed to go full scale. It resulted in the online dispute getting more intensity, especially as a result of the pandemic. The parties have embraced that idea being in their homes' comfort and safety and simultaneously engaging in the dispute resolution process. The success story has already been recorded since they commenced the resolution of a dispute. Therefore, it could hold that the ODR has many benefits - save costs and does not require the parties involved to travel.

Suffice to say that the LMDC staff had to stay at home. When parties initiate the online dispute process, it is immediately linked to the LMDC website, as well as the ODR guidelines and requirement for mediators, because it is important that mediators understood ODR and understood how it operates. They also scheduled ODR practice sessions on zoom for their mediators and parties before they mediate to ensure a qualitative and seamless ODR mediation process. Additionally, they organised a general ODR facilitation training mediation certification course in collaboration with the ODR Court and ODR Europe for their mediators. They also held an online demonstration ODR process, emailed demo videos to their mediators, especially those requiring further assistance with technology and reviewed the LMDC Practice Direction on Mediation Procedure and ODR Mediation; this then gave it a legal backing. It is fair to say that the LMDC embraced the new normal and maintained constant communication with the mediators with the online qualitative experience requirements. They need to have a laptop or

tablet, data and practice peer review. Thus, at the end of the whole rigorous training, the LMDC mediators were certified in online mediation.

It is pertinent to point out that the LMDC has covered 30 to 40 cases since August 2020, though more claims are being handled as they commenced the first online settlement month in Africa on 7th December 2020 which is still ongoing at the time of this writing. However, the target was to meditate 500 cases online, but due to the usual challenges - network and data are yet to be achieved.

Given these challenges, the LMDC were resilient and surmounted these challenges by ensuring that they had a seamless qualitative process during the Settlement Month (SM) in December, though was initially scheduled in November. However, the hoodlums that hijacked the END SARS peaceful protest made this impossible. As they broke into the LMDC offices, looted and took away all the computer systems, printers, photocopiers and other equipment while the office was set ablaze.

In furtherance, the main ADR Unit was totally destroyed, ranging from the reception, the registry, the accounts section, the data unit; everything was burnt to the ground. Nevertheless, the LMDC persevered, as it carried on with work remotely, refusing to get deterred by such an act.

Currently, the LMDC no longer have an office at Igboere because it was burnt down, but the ADR track office at Ikeja is still there. However, one of their mediators was kind enough to allow them to use part of her office- that is where they started with the ongoing Online Settlement Month (OSM). Hence, publicity was not as much as they would want it because the whole building was burnt down.

CONCLUSION:

In this work, we provided a detailed account of the concept behind the birth of the LMDC, past, the present journey, advantages, and impact on other states. Consequently, with the level of advantages and impact revealed in this work, the LMDC is a success story notwithstanding the above-stated challenges, as the scheme has continued to render services remotely to their users. Given this, we encourage potential user or users to file their cases via the Online Settlement Month (OSM) within the comfort of their homes.

To hear the full version of this episode, [click here](#) and for more information on the OSM, visit the website of the LMDC and [Instagram page](#).

REFERENCES:

Chinwe Stella Umegbolu, Episode 9: The LMDC Journey under the leadership of Mrs Adeyinka Aroyewun. <<https://anchor.fm/chinwe1/episodes/Episode-9-The-LMDC-Journey-under-the-leadership-of-Mrs-Adeyinka-Aroyewun-eoac1b>> accessed 28th December 2020

Adeyinka, Aroyewun, Mediation Profile, International Mediation Institute (IMI) <<https://imimediation.org/member/adeyinka-aroyewun/>> accessed 27th December 2020

LMDC Law 2007