

Exploring the Efficacy of Divorce Mediation in Reducing Conflict and Improving Post Divorce Relationships

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ABSTRACT

Divorce has become a pandemic, threatening the very fabric of marriage. Divorce rates have been rising globally over the past few decades with its devastating effects on the couples and their children. It is quite glaring that without stable families, there cannot be prosperous and stable society. The realization of this all-important role of marriage institution in the society has given rise to divorce meditation to reduce conflict and improve post-divorce relationships. Strong families and marriage, institution foster a sense of belonging, unity and social cohesion, which are essential for building a harmonious society. Essentially, this study which adopted the doctrinal research methodology aimed at analyzing the effect of divorce mediation in reducing conflict and improving post-divorce relationship. It was found that by choosing mediation, couples can navigate divorce with greater control, dignity, and respect, promoting a more positive outcome for all involved. The work recommended, mandatory mediation, to make mediation a required step before divorce proceedings to encourage constructive conflict resolution; Encourage couples to mediate early in the divorce process to prevent escalation of conflict; ensure mediators received specialized training in divorce mediation, conflict resolution, and emotional intelligence.

Keywords: Divorce, Mediation, Reducing Conflict, Relationships.

1.1 INTRODUCTION

Nigeria and rest of the world have recorded increased divorce rates in the past few decades. It is almost a tangible fact that families are in disarray as the off-shoots of the problems created and associated with the fast development of rights law and their attendants' liberties seems to overtake the society. Urbanization and industrialization also can be traced as some of the root causes of high divorce rates and these have been exacerbated by increased societal tolerance of divorce and more liberal divorce laws. Reduced religious objection to divorce has also led to high divorce rates. With increased tolerance of divorce and increased divorce rate arose, a need for setting parameters for ensuring an effective divorce process for the divorcing family; the family dispute resolution system and the state.

The question is why do we need to stabilize families and marriage institutions? By stabilizing families and marriage institutions we can build a more compassionate, supportive, and thriving society. Stable families provide a nurturing environment for children to grow, develop and thrive, which is critical for their physical, emotional and psychological well-being. Families and marriage offer emotional support, comfort and a sense of security, which are vital for individual's mental health and resilience. Economic benefits: stable families and marriage can share financial responsibilities, reduce poverty and promote economic growth. Role modelling healthy families and marriages model positive values, behaviours and relationships for future generation. Community building: strong families and marriages contribute to building stronger, more supportive

communities¹. Reducing social problems: stable families and marriages can help reduce social problems like crime, substance abuse, and domestic violence. Promoting values: families and marriages pass down cultural, moral, and spiritual values to future generations. It provide a support network during life's challenges, like illness, unemployment or bereavement. Personal growth: healthy families and marriages foster personal growth, self-improvement, and self-actualization.

2. Explanation of Key Concepts

2.1 Divorce

Divorce usually entails the cancelling or reorganizing of the legal duties and responsibilities of marriage, thus dissolving the bonds of matrimony between a married couple under the rule of law of the particular country or state. It can be said to be a legal dissolution of a marriage by a court or other competent body.² A divorce or dissolution of marriage is a decree by a court that a valid marriage no longer exists. It leaves both parties free to remarry³.

History of Divorce, Origins and Meaning

“Divorce” comes from the latin word “divortium” which means separation. It is also equivalent to the word “divort” or “divortere”. “DI” means apart and “Vertere” mean to turn to different ways. Divertere was also referred to mean divert, turn aside, separate or leave one’s husband. The word was traced in French vocabulary in the later part of the 14th Century “divorcer” and in the middle English in the year 1350 – 1400 “divorce”.

Early Divorce Law: The oldest codified law in the history of divorce was traced in 1760 B.C during the reign of king Hammurabi of Babylon. It is believed that the king carved 282 laws in stone tablets including the law on divorce. During that period, a man could divorce his wife by simply saying, “you are not my wife”, which was followed by payment of a fine and returning the wife’s dowry. However, if it was the wife who wanted divorce, she was required to file a complaint to obtain a divorce.⁴

The Matrimonial Causes Act of 1857 was a landmark piece of legislation that gave women in England and Wales the right to divorce or seek a nullity through the civil courts. The act came into effect on January 1, 1858, and it: Strengthened the idea that women should be treated equally to men in the eyes of the law. Transferred matrimonial litigation from the Church of England to a new secular court. The Matrimonial Causes Act of 1857 led to the current statutory framework for divorce, which is set out in the Matrimonial Causes Act of 1973.⁵

However, divorces continued to favour men, with the award and maintenance for less-wealthy spouse, usually the woman, being calculated based on needs, until the case of White V White⁶. Martin White and his wife Pamela had run a family business, worth about £4.5 million during their 33 years marriage. At first Pemela White was awarded £800.000, but she took the case to the case to the court

¹ The importance of family stability to social protection and Achieving Sustainable Development, <https://www.un.org>>accessed 5th Sept, 2017

² Divorce-wikipedia <<https://en-wikipedia.org>>wiki> accessed 5th Sept. 2017

³ Divorce-American Bar Association <<https://www.americanbar.org> accessed 5th Sept, 2017

⁴ History Divorce, origins and meaning, <https://phily.esquire.com>> history> accessed 5th Sept. 2017

⁵ Women’s Legal Landmarks <https://womenlegallandmarks.com>.accessed 5th Sept. 2017

⁶ White v white (1995) Family Law 522, England and wales Court. Case mine. <https://www.casemine.com>> Judge >accessed 5th Sept. 2017

of appeal, then the house of Lord in 2000, finally awarded £1.5m. It was a landmark cost because it was decided the assets should be split more fairly, and recognized in contribution of a “homemaker”.

Divorce Rates: Divorce rates have shifted over time, introducing new insights into why modern couples decides to end their marriage.

According to Divorce Rate in the world:⁷ Russia 4.4 Denmark 2.7, Ukraine 3.1, Cuba 2.9, Latvia 3.1 USA 2.8, China 3.2 Sweden 2.5, Egypt 1.8, Nigeria 2.9, Maldives 5.52. Maldives have the highest divorce rate in the world in 2021. It also has the highest divorce rate of any country of time in history. They were awarded a Guinness world record for the highest divorce rate on record in 2002, with 10.97 divorces per 1000 maladivians. Just like Maldives, Nigeria was ranked eleventh among the countries with the highest divorce rate because its women are financially independent and can sustain themselves without husbands.

2.2 Mediation

Mediation, generally, is a dispute resolution mechanism whereby a third party neutral called the mediator facilitates communication between parties to a dispute, elicits options for consideration by the parties and assists parties to arrive at their own decision in respect of the issues in contention without himself formulating solutions for the parties.⁸

Mediation is a means of resolving disputes outside of the judicial system by voluntary participation in negotiations structured by agreement of the parties and usually conducted under the guidance and supervision of a trained intermediary.

The goals of mediation for the disputing parties are to; share feelings and reduce hostilities, clear up misunderstandings, determine underlying interests and concerns, find areas of agreement, and incorporate those areas into solutions devised by the parties themselves.

Mediation has essential pillars, this is by adhering to the sacrosanct, principles of neutrality, voluntary participation, confidentiality, self-determination, impartiality, and procedural fairness.

2.3 Conflict

Conflict occurs or starts whenever people disagree over their values, motivation, perceptions, ideas or desires. It is an active disagreement between people with opposing opinions or principles. Conflict can be defined as a clash between individuals arising out of a difference in thought process, attitudes, understanding, interests, requirements and even sometimes perceptions.⁹ Conflict is a struggle between opponents over values and claims to scarce status, power and resources. It is a competitive or opposing action of incompatibles, antagonistic state or action as of divergent ideas, interests for person; mental struggle resulting from incompatible or opposing needs, drives, wishes or external or internal demands.¹⁰

Etymology: conflict is from latin conflictus, Past participle of conflagere (to strike together)¹¹. Conflict can manifest in various forms, such as; interpersonal conflict (between individuals);

⁷ Divorce Rate by country update July, 2017 www.unifiedlawyers.com.act accessed 5th Sept. 2017

⁸ M Dawodu, SPA Ajibade & C.O. <https://Spaajibade.com>> detail<accessed 6th Sept. 2017

⁹ Understanding Conflict, <https://mgcub.ac.in>>accessed 7th Sept. 2017

¹⁰ Conflict definition & meaning. Merriam-Webster, <https://www.merriam.webster.com>>accessed 7th Sept. 2017

¹¹ Conflict-wiktionary, the freedictionary, <https://wiktionary.org>>accessed 7th Sept. 2017

intrapersonal conflicts (within oneself). Group conflicts (between groups or teams), organizations conflicts (within organizations) social conflicts (between different social groups or communities) political conflicts (between nations, governments or political entities).

Conflict has disadvantages, it can trigger negative emotions, such as anger, fear, anxiety or resentment, that can effect your mental and physical health. By avoiding conflict, you may feel more calm, relaxed and peaceful. You may also avoid hurting or offending others, which can preserve your relationship and your reputation.

Effective conflict resolution reduction involves: Active listening, empathy, understanding different perspectives, identifying common goals, finding mutually beneficial solutions, compromise and negotiation, seeking mediation. Conflict can be opportunities for growth, learning and improvement, but they require constructive management to avoid escalation and promote positive outcomes.

3.1 Divorce and Family Mediation History

Divorce and family mediation have fascinating history. During Ancient Civilizations; ancient Greece and Rome family disputes were resolved through community elders or respected leaders. In Africa and Asian cultures, tribal elders and community leaders played a similar role in the middle Ages, the Catholic Church dominated marriage and divorce proceedings, with an emphasis on reconciliation. Community-based dispute resolution continued, with local leaders and clergy playing key roles. In 18th and 19th centuries, the rise of formal courts and legal systems led to increased litigation in family disputes. Social reformers advocated for alternate dispute resolution methods.

In the 20th century; post-world war II, divorce rates increased and family mediation emerged as a response. In 1960s – 1970s, family mediation gained popularity, with the establishment of mediation centers.

In 1980s: mediation became more formalized with training programs and professional organizations emerging.¹²

In the modern Era, 1990s to present, family mediation has become a widely accepted and encouraged approach to resolving family disputes. There is an increased focus on collaborative law, cooperative parenting, and child-centered mediation. Advancements in technology enable online mediation and expanded access to services.

In 1974, first family mediation center was established in the United States (concord, Massachusetts). In 1981, American Arbitration Association (AAA) begins offering family mediation services. 1994, Association for Conflict Resolution (ACR) formed to promote mediation and conflict resolution

Nonetheless, the practice of divorce mediation continued, encouraged by judges who welcome both the reduction of cases on their dockets and relief from making difficult decisions about the best interest of children. Court administrator supported legislation that compelled family mediator, as evidence mounted that mediation was less expensive than court hearings and resulted in less post divorce litigation and enforcement problems. The divorcing population, through a number of grass root organizations began demanding reforms. Legislative changes supporting co-parenting, joint custody, and shared parenting set the stage for the institutionalization of divorce mediation.

¹² A L Milne, J. Folberg and P Salem, The Evolution of divorce and family mediation: An Overview, <https://psycnet.apa.org>>accessed 7th Sept. 2017

Since its inception in the early 1970s, the landscape of the mediation field has evolved as more programs and services have been established. Mediation is now used in thousands of divorce-related dispute annually. The field has matured, as evidenced by current professional issues and controversies.¹³

3.2 Efficacy of Divorce Mediation in Marriage Conflict Resolution

Mediation process has the ability to produce the desired or intended results through the following:

* Mediation is economical. Mediation, unarguably is one of the cheapest means of conflict resolution today. It is the most common mechanism employed by governments or international organizations seeking to achieve justice for all. The process is generally less expensive than litigation. It is equally less expensive than arbitration and most other ADR mechanisms. This is so because mediation provides a more timely and effective resolution. Mediation outcomes are mutually satisfactory, as there is a high degree of compliance with the agreement that has been reached by the parties and thus a low degree of conflict aftermath¹⁴, there is only a slim likelihood of revisiting the conflict once the parties have reached and signed the agreement.

* **Mediation is educational and empowering.** During the course of the mediation, parties often gain skills that will serve them in communication better with each other in the future; their attitudes towards each other shift from adversarial to cooperative and from dismissive to respectful. The mediator plays great role to help parties achieve this change of attitude.

* **Mediation unveils underlying issues:** Mediation allows parties to discuss the underlying issues of their case without the constraints of formal legal rules of evidence or admissibility and relevance. Often unveiling the underlying issues reveals the true interest of the parties which must be addressed for effective resolution of the conflict.

* **Neutrality:** Mediation utilizes a neutral third party to facilitate the resolution of the issues through effective communication between disputants. Mediators are required to put their beliefs and personal views aside and deals with the matters before them dispassionately. A mediator must behave in an impartial and objective manner throughout the mediation process. Mediators must take a great deal of care to maintain their neutrality and impartiality while acting in the role of a mediator. The perception of the parties as to the neutrality of the mediator is very important. If a mediator is behaving neutrally but a party perceives bias, such a party may not be satisfied with mediation. Parties usually will come to mediation with a preconception that the mediator is neutral. It is the duty of the mediator to prove such good perception right and conduct himself professionally throughout the mediation process.

Voluntariness: Generally, mediation arises out of the voluntary decisions of the parties. Even in cases where parties are referred to mediation by the court, or where there is statutory obligation on parties' mediation, the process is still designed in such a way to make parties own it or to withdraw from it before a final agreement is executed.¹⁵

Thus, mediation is the choice of the parties to attempt to resolve their differences themselves, indicating a willingness to maintain or enhance their relationship, rather than choosing an adversarial

¹³ Ibid

¹⁴ F O Oleghe, Membership Training Programme, Nigeria Institute of Chartered. <https://app.glueup.com>
<accessed 7th Sept. 2017

¹⁵ Ibid

method, such as taking someone to court, which often indicates the beginning of a protracted conflict. Mediation as a voluntary process strives for a win-win outcomes. Parties are more likely to experience satisfaction when they make an informed decision to participate in the mediation and arrive at an agreement of their own in a facilitated process than when unduly coerced or agreement is imposed on them. In mediation the process is as important as the outcome; each party should feel as a winner in the process, even if only on wins in the outcome.

* **Confidentiality:** Unlike litigation that is done in the public glare, mediation is done in private. Only parties and their representatives are entitled to attend a mediation session. Besides that, anything that is said or written in the course of the mediation may not be repeated without the consent of the parties. This allows couples to be free to have honest and open communication in respect of issues being explored in depth and options being offered and discussed thoroughly. Certain court procedures or rules may permit an exception, and this will be explained by the mediator where applicable. For example, the agreement of the parties may need to be registered and/ or filed in court, to promote enforceability and satisfy court protocols. Another exception to the rule of confidentiality is where the law requires disclosure¹⁶

3.3 The Role and Functions of the Mediator

2.0 The Role and Functions of the Mediator

The intervention of a neutral third party is the main distinguishing feature between ordinary negotiation and mediation. The mediator's role is to assist the parties in a wide range of ways to make progress towards settlement with administrative and technical skills. The mediator's role includes neutrality, facilitation, negotiation, coaching, organisation, reality testing, prompting, catalyst, manager, and overseer.

2.1 Neutrality

Neutrality or impartiality is a key component of a mediator's role. All mediators know that they need to avoid being judgmental, taking sides, jumping in too quickly and giving advice. Where a mediator is perceived to be judgmental about legal, technical, commercial or personal agendas, it is easy to recognise the potential threat to the mediator's neutrality. It is essential that the mediator has the respect of the parties in his conduct of the mediation. While the mediator acts with complete impartiality, he must avoid anything that could be interpreted as favouritism or bias in regard to any party. The interest of both parties must be considered fairly and even-handedly in order to offer both parties mutual gain. The mediator should never help a party to derive an advantage over another. All that is required of him is to maintain impartiality at all times.

Neutrality should not only be in fact, but seen in both joint and private sessions. Where only one party is present, the mediator's neutrality and impartiality must be visible in his words, body language and the form of guidance given, so that he does not impair either the fact or appearance of it. The mediator must avoid any gesture of impatience, disagreement or satisfaction in response to a party's statement, and series of questions directed to a particular end. Spending more time in a private session with one party than with the other may give the wrong impression. Indeed, it is sound practice to inform parties in the initial joint session that if this occurs, it has no significance.

¹⁶ S Khoirian and others. Effectiveness and Efficiency of divorce mediation. Research gate
<https://www.researchgate.net> <accessed 8th Sept. 2017

Neutrality of the mediator simply means that he has no stake in the outcome of the dispute created and owned by the parties, but only supports progress towards a resolution.

2.2 Facilitation

The intervention of the third party neutral (mediator) is what distinguishes mediation from negotiation and litigation. Negotiations often fail and litigation is commonly preceded by unsuccessful negotiations. However, mediation is usually successful because of the facilitative role of the mediator. In addition, parties fail in their negotiation, because of the presence of emotional and perpetual impediments, and the domination of bargaining from fixed positions, supported by unsound and exaggerated adversarial arguments. The mediator as a facilitator helps the parties to overcome deadlock and find a way of working co-operatively towards a mutually acceptable settlement.

The mediator facilitates and manages the process but does not take it over entirely, but rather allows the parties to handle the problem. The mediator's role as a facilitator is a powerful factor in the success of mediation¹⁷.

2.3 Negotiation

The mediator's role is not merely passive otherwise mediation will not work. His role consists of assisting the parties to negotiate. The mediator's objective is to help each party attain a settlement that satisfies the interest of all. The steps the mediator takes are that of negotiation which must be restrained, moderate and non-directive. The mediator helps the parties to take deliberate steps towards settlement by helping them overcome barriers, create positive relationships and move towards settlement. Settlement is achieved partly because of the mediator's deliberate activities and partly because of unconscious psychological processes (which is negotiation).

2.4 Coaching

In a mediation process, the mediator acts as a coach to the parties and their advisers, by helping them participate actively and effectively, while preserving neutrality and confidentiality. The mediator coaches directly through sharing experience and not opinion. The mediator manages the parties' expectations, indirectly sets the tone of the process, maintains energy and purpose and leads by example in terms of attitude and approach. Coaching is usually before and during the mediation process.

2.5 Organisation

The mediator is an information gatherer, who organises data, identifies common ground and the scope for zone of possible agreement (ZOPA), Before the mediation process, the mediator performs some administrative role like arrangements for practicalities before and during the mediation day, He ensures the smooth running of the process in terms of timing, paper work, provision of information to participants, room allocation, equipment and refreshment

2.6 Reality Testing

The mediator helps the parties in private sessions to take a realistic and critical view of the dispute at hand, in order to reconsider their risks in the light of alternatives to not reaching agreement. The

¹⁷ M S Siddiqui World Mediation Organization WMO. The role of the mediator
<<https://worldmediation.org>> accessed 5th Sept. 2017

mediator tests the feelings and frustrations of the parties and channels their energies into positive approaches.

2.6.1 Class Participation

In a tenancy case before you as a mediator, where the Landlord's notice to quit to a yearly tenant is defective in law, and the tenant is asking for one year to quit and he is prepared to pay the rent for the one year, but the landlord is insisting the tenant must vacate under one month, use reality testing in caucus with the landlord to make him reconsider his risks in the light of the alternatives to not reaching an agreement.

2.7 Prompting

Where no agreement is reached, the mediator prompts the parties to keep the momentum towards settlement. A mediator does not take or express any view about the prospects of any party's case if it were to proceed as an action in court. The mediator helps parties evaluate their case through encouraging new perspectives.

2.8 Catalyst

The mediator is a catalyst who makes the parties participation in the process effectively. Mediation works as the result of both parties' deliberate activities and of unconscious processes that are difficult to analyse. As a catalyst for problem solving, the mediator brings a clear head and creative mind to help the parties construct an outcome that best meets their needs.¹⁸

2.9 Manager

The mediator develops a positive tone for the mediation, establishing and maintaining good relations with all participants, as well as taking responsibility for the very significant job of process management. As manager of the process, the mediator provides firm but sensitive control, conveying confidence in the process and maintaining a sense of purpose

2.10 Overseer

The mediator oversees the drafting of the settlement agreement. He checks with parties to ensure that all issues are covered and that the settlement is feasible and workable. But in all cases, the mediator must never assume the role of a legal draftsman. In summary, the mediator plays the role of a neutral, facilitator, negotiator, coach, organiser, reality tester, prompter, catalyst, manager and overseer.¹⁹

3.4 Qualities of a good Mediator

A mediator is a neutral party who assists disputing parties to identify clearly the matters in dispute and explore possible solutions that will be acceptable to them. However, for a mediator to effectively assist parties explore possible solutions to a conflict, he must possess some strategies and techniques that qualify him to move towards settlement. The qualities a good mediator must have are impartiality, negotiation skills, confidentiality, active listening, reality testing, not being judgmental, catalyst, empathy, patience, intelligence, integrity and chairperson's demeanor

¹⁸ The Crucial Roles of a Mediator in conflict Resolution Medium. Pax et Curisconsults-accessed 5th Sept. 2017

¹⁹ Ibid

➤ **Impartiality**

An effective mediator must possess the capacity to remain impartial and neutral even in a veritable maelstrom of controversy. This is one quality every mediator ought to begin the mediation process with. The absolute nature of the need for neutrality imposes serious obligations on a mediator. Where there is a close relationship between the mediator and any of the parties, the mediator must disclose such prior relationship. The failure of a mediator to disclose a prior relationship with a party is a glaring ethical violation that undermines the integrity of the entire mediation process. Where the substance of the dispute so arouses the prejudices and passion of the mediator, he should step aside to avoid compromising the neutrality essential for effective mediation.²⁰

➤ **Negotiation Skills**

Generally speaking, the negotiating skills of a mediator help the parties to focus on where they want to be and not on where they are or were. The mediator is able to assist the parties to focus on their interests not wants or positions with good negotiating skills, the mediator identifies the parties needs and gives them the opportunity to recognize a shared goal. The mediator assists in generating options for mutual gain and introduces objective criteria to speed up the process. The role of the mediator as a negotiation coach becomes very crucial at the bargaining phase of the mediation process. Nevertheless, the mediator acts as a coach to the parties and their advisers throughout the mediation process, enabling them to participate fully and effectively. As a coach, he manages the parties expectations, sets the tone, maintains energy and purpose and leads them by example in terms of attitude and approach.

➤ **Confidentiality**

One of the strengths of mediation is that parties have a major input into the process and complete control over the final decision. Be that as it may, parties usually become frustrated or downhearted if there is no flow of information between them; this however preserves confidentiality but limits the scope of progress, the flow of information during private meetings between the mediator and the parties must be kept in confidence. The mediator must seek the permission of the parties to disclose any information. Confidentiality is very fundamental to a mediation process because it is conducted "without prejudice". The entire mediation is in confidence, whatever is discussed remains confidential and the outcome is only publicised if the parties so agree. This places a clear responsibility on the mediator to preserve confidentiality and to treat all information with great care. Revealing a confidence without permission will damage the mediator's credibility and could even end the mediation.

➤ **Active Listening**

Listening is an active process that entails hearing the words, being sensitive to vocal clues, to tone and pitch, an infectious observing of movement, taking into account the context, and communicating understanding. In this way, parties not only know they have been heard, but can also hear their own messages clearly. A mediator as an active listener aims for a conversation with the parties and their teams, and not to conduct an interview, investigation or interrogation. By listening well, the mediator can convey respect and demonstrate interest in what is being said, modeling effective behaviours and thus encouraging parties to talk openly and communicate more constructively with each other. Active listening paves way to settlement, enabling the mediator to assist with negotiations, to get clearly and

²⁰ C Herd, What Makes a good Mediator? Mediation Traits to lookouts for herddispute resolution.com <<https://herddispute resolution. com>>accessed 8th Sept.2017

to handle the details needed for a workable solution. The capacity to be a good and understanding listener is the basis of effective communication.²¹

➤ **Reality Testing**

In the course of mediation, parties may propose highly inflated solutions which may not lead to any agreement. It is the mediator's function to confront the proponents of such proposals with an understanding of their consequences in the real world. Reality testing might involve the mediator in playing back to a party their stated position and encouraging them to test and appraise it. Reviewing an offer with a party and questioning how it is likely to be received by the other side will assist progress or inhibit the negotiation. The mediator may discuss the practicalities of a proposed settlement with each party: its implications and its workability if agreed. The mediator assists the parties to assess future risks, time, money or reputation, if the dispute is not resolve.

➤ **Not being Judgmental**

The fact that a mediator is appointed does not make him a judge. The mediator plays a non-judgmental role in helping parties reach an agreement on which terms are acceptable to them. It does not matter if the mediator disagrees with the wisdom or fairness of the resolution. Because the mediator is not a judge, the information he receives during mediation remains confidential and shall not be admissible in court against any party in case mediation fails.

➤ **Catalyst**

The mediator's presence introduces a new dynamic to the discussion of the dispute by the parties. The skill of the mediator is to make that dynamic a positive and productive one. Like a true catalyst, the mediator helps to speed up the rate of resolution but not absorbed by the process.

➤ **Empathy**

Empathy is the ability to understand what is being said and reflecting on same. The mediator must be able to appreciate the fears, history and perceptions of every party that underlay the discussion. This will make the parties have confidence that the alternative solutions developed by the mediator will not be blind to their needs.

➤ **Patience**

Mediation is not a faceless bureaucracy but a process that involves empathy and patience. The parties need someone who is patient to listen to them no matter how long it takes. These are interpersonal qualities that are essential for ensuring and maintaining effective communication and much more.

➤ **Intelligence**

Consciously or unconsciously parties believe and expect the mediator can help them resolve their disputes because of his knowledge. The parties only educate the mediator about their problem and expect him to assist them arrive at a solution as fast as possible taking into consideration the world they live and operate in.²²

²¹ Ibid

²² What qualities make for a good mediation suf Scottish Centre for Conflict Resolution
<<https://www.scottishconflictresolution.org>>accessed 8th Sept. 2017

➤ **Integrity**

The mediator's character is very pivotal in the mediation process. The mediator must be a respected person in the community he finds him/herself. His capacity to handle other disputes is a testimonial to his virtues.

➤ **Chairperson's demeanor**

Mediation is a quasi-formal process for dispute resolution, subject to certain ground rules and structure, which a mediator is expected to apply evenly and effectively. He is the process manager, providing firm but sensitive direction.²³

The above-mentioned qualities are interrelated to the role of mediators in a mediation process. However, the list of virtues that parties expect in a mediator is by no means exhaustive

4.1 Legal Framework for Mediation in Nigeria

Although mediation is generally consensual and in many jurisdiction, it is not regulated by law, over the years in Nigeria legal and administrative structures have been put in place towards the promotion of mediation outcomes. In the forefront of these legal interventions are the Lagos multi-door courthouse law, Lagos State Citizens mediation Centre Law and the Lagos Court of Arbitration Law. Several other states of the federation now have their own Multi-door Courthouse Laws and Laws relating to citizens mediation.

4.1.1 Relevant Provisions of the Lagos Multi-Door Courthouse Law

The Multi-Door Courthouse concept was introduced to Nigeria by the co-effort of the Negotiation and Conflict Management Group and the Lagos State judiciary, which co-effort gave rise to the Lagos Multi-Door Courthouse Law 2007. This 2007 Law has become a model law for the other states of the federation and Abuja. Thus, understanding the law regulating the LMDC will give adequate information on the Multi-Door concept in Nigeria.

Section 16(1) of the LMDC Law 2007 makes provision for the role of the courts in promoting ADR; it states in part:

It shall be the responsibility of the Judges of the High Court of Justice, Lagos State, to further the cause of ADR and give effect to the overriding objectives of the LMDC by:

- (a) encouraging the use of LMDC for the settlement of disputes by Alternative Dispute Resolution (ADR)
- (b) avoiding the assumption of the role of a mediator in the course of a pre-trial conference:
- (c) inquiring from parties efforts made at ADR and examine (sic) the reasons stated for a failed attempt towards... ADR...:
- (d) ensuring that parties and their counsel....explore ADR in the resolution of disputes:
- (e) controlling and managing effectively proceedings in Court and issue (sic) orders which would encourage the adoption of ADR methods in dispute resolution, including the

²³ Ibid

mandatory referral of parties to explore settlement at the LMDC whenever one of the parties to an action in court is willing to do so;

- (f) adopting best known international practices and appropriate measures towards the promotion and development of an ADR consciousness among litigants and their counsel...;
- (g) discouraging the continuation of proceedings in court until parties referred to the LMDC have through their counsel confirmed submission to proceedings at the LMDC;
- (h) recognizing and giving effect to dispute resolution clauses contained in agreements between parties; and
- (i) ensuring the adoption and enforcement of Terms of Settlement and Awards reached at the LMDC in the same manner as a judgment or order of court.²⁴

Section 19(1) of the LMDC Law 2007 provides that upon the completion of an ADR proceedings, Settlement Agreements which are duly signed by the parties shall be enforceable as a contract between the parties and when such agreements are further endorsed by an ADR Judge or any other person as directed by the Chief Judge, it shall be deemed to be enforceable under Section 11 of the Sheriff and Civil Process Law.

In the same vein, Article 17 of The Lagos Multi-Door Courthouse Practice Direction on Mediation Procedure provides that once reduced into writing and signed by the parties, the Settlement Agreement is forwarded for endorsement to the Referral Judge (court-referred cases) or the ADR Judge (Walk-in & Direct Intervention matters) and in accordance with Section 19 of the LMDC Law 2007 and Order 39 Rule 4(3) of the High.

Court of Lagos State (Civil Procedure) Rules, it shall be deemed to be enforceable as a judgment of the High Court of Lagos State under Section 11 of the Sheriff and Civil Process Law.

Similarly, Section 14(2)(b) of the Lagos State CMC Law provides that the M.O.U. shall represent full and final settlement of the dispute between the parties and that it shall be enforceable in a Court of Law. The elements of law here are that the M.O.U. entered into by the parties is binding on the parties and has been clothed with enforceability. Section 14(2)(e) of the CMC Law reiterates the fact that the M.O.U. shall be enforceable in a Court of Law.

By virtue of Section 14(2)(d) of the CMC Law, the M.O.U. shall be recognised as binding upon endorsement by the Magistrate or Judge as appointed by the Chief Judge as the case may be. The endorsement of the M.O.U. as provided by law transmutes the M.O.U. into a consent judgment of the court.

Moreso, the field of arbitration and mediation has witnessed significant development over the years with legislative changes often reflecting evolving global practices. By 2016, mediation had become an increasingly popular option for resolving disputes in Nigeria. The LMDC had already handled thousands of cases, with a remarkable settlement rate of 65% in 2014 and 2015. This growth can be attributed to the mandatory referral of cases to the LMDC, which helped raise awareness about the benefits of mediation.

²⁴ Lagos Multi-Door Courthouse Neutrals Parley Lagos State Government <https://Lagos.state.gov.ng> accessed 8th September 2017.

5. Conclusion and Recommendations

5.1 Conclusion

Divorce mediation is a valuable approach to reducing conflict and improving post-divorce relationships. Research shows that mediation-decreases conflicts and hostility; improved communication and cooperation; enhances parental relationships and co-parenting; reduces stress and anxiety for children; increase satisfaction with divorce outcomes and saves time and money compared to litigation. Mediation is one of the most effective instruments for resolving accumulation of cases in courts.

5.2 Recommendations

- There should be increase awareness and accessibility of divorce mediation services.
- Provides training and certification for mediators in family law and conflict resolution.
- Encourage courts to refer cases to mediation models and protocols
- To consider integrating mediation into divorce education programs
- Foster collaboration between mediators, attorneys, and mental health professionals.
- To develop policies and laws supporting mediation as a preferred dispute resolution method.