

Interest-Based Conflict Management Systems: Beyond Traditional and ADR Systems of Conflict Resolution

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Abstract

This article is both a review and a critique of existing models of conflict resolution and management. Written from practitioners' point of departure, the shortcoming of traditional methods of managing conflict, including those involving alternative dispute resolution methods are examined. Specifically, we examine the meaning of ADR, the conditions under which it is practicable, and its limitations. This is followed by an examination of an interest-based conflict management system as another "alternative" to ADR. This system, it is argued in this article, takes into cognizance the interests and aspirations of all the stakeholders involved in a situation of conflict resolution. To provide the foundation for our model, we examine four different types of conflict management systems in terms of the identity of their designers, attitude toward conflict, analysis of conflict, methods of managing conflict, focus of efforts and the key players in a situation of conflict resolution. Finally, we propose nine principles of interest-based conflict management system, which should guide the practitioner in designing an effective conflict management system.

Keywords: Conflict Management, Stakeholder, Power and Interest, Alternative Dispute Resolution, Interest-based Conflict Management System

1. Introduction

New methods of dispute resolution or conflict management are being developed and applied to an ever-widening array of problems, from family to commercial disputes and a growing number of public interest disputes (see for example, Gulliver, 2009; Deutsch, 2009). Particularly in Nigeria, with inspirations from conflict resolution practices in the developed countries, we are now confronted with how new systems of conflict resolution (e.g., ADR) can be developed and applied as means for the management of conflicts within and outside the organization. In addition to these new methods and applications, practitioners and academicians in the field of conflict resolution or management in growing numbers are recognizing that conflict is not pathological, that it need not be avoided, and that it can be managed toward productive ends (Buntz and Carper, 2000). We argue, in this article, that learning to manage conflict is integral to a high-performance organization.

From all available evidence, it seems that the practice of conflict resolution is leading the development of theory in this field (Bazerman and Neale, 1992; Patton, 2000). The reason is simply that, unlike many areas of management and organizational research, the growing interest in conflict management is rooted in the practitioners' experiences in their attempts to develop alternative dispute (or conflict) resolution systems (Deutsch, 2009). In this regard, any theory about conflict resolution is derived from the experience of the practitioners. Patton (2000, p. 7) provides a number of obstacles to developing the field of conflict management and negotiation. According to the author, "there is a lack of the kind of tested prescriptive theory needed for the most effective training (in conflict management and negotiation)".

We are thus aware that not much work has been done in terms of theorizing conflict management. In other words, our discussion here is anchored on the experiences of the practitioners of conflict resolution and management in an attempt to develop theory grounded in practice. In this article, our goal is to explain why practitioners and theorists need to be competent in conflict management and dispute resolution and to suggest guiding principles in developing effective conflict management system.

In order to achieve this objective, we started by explaining the meaning of conflict in generic terms and the different strategies organizations use in responding and/or managing conflict. We argue that conflict is an organizational fact of life, which cannot be swept under the carpet. Secondly, we identified the sources of conflict in an organizational setting and how conflict is manifested. Third, we examine how organizations respond to conflict either by fighting it or through flight strategies, including the pitfalls of these fight and flight strategies (Costantino and Merchant, 1996). A discussion of the dysfunctionalities of traditional models of conflict resolution leads us to an examination of alternative dispute resolution (ADR) as methods for overcoming the shortcoming inherent in the traditional models. We argue that even as celebrated as ADR as a method of resolving disputes, the practice has its own shortcomings. After examining the appropriateness and inappropriateness of ADR practices, we propose an "alternative" approach to developing an effective conflict management system, termed as "interest-based conflict management system."

To develop the proposed model, we provide a discussion of the evolution of conflict resolution and a comparison of the available different types of conflict management systems. This article is drawn to a conclusion by suggesting the principles of interest-based conflict management systems.

2. Conflict and how Organizations respond to it

As many authors and practitioners (e.g., Rahim, 1992; Sitkin and Biss, 1994; Varoufakis, 1991; Varynen, 1991) have asserted, organizations are rife with conflict that takes many forms and manifested in several ways. They can hide it, quash it, control it, fight it, deny it, or avoid it, but whatever they do, they cannot make it disappear: conflict is an organizational fact of life. Conflict is omnipresent in organizations.

Take for example, the hypothetical Delta Computers Ltd, a leading manufacturer of word processing software purchased by both home users and commercial businesses. Historically, its largest market has been the commercial arena. Last year, Delta introduced "Hole-In-One," a new "umbrella" software package that includes word processing, graphics, spreadsheets, and presentation applications. It is Delta's first entry into the spreadsheet and presentation software market. Recently, Delta has begun to receive complaints, particularly from home users, that the presentation package does not interface properly with the word processing package, with the result that certain categories of presentation data (particularly bar graphs and pie charts) are deleted in certain modes of operation. Yesterday, an irate home user who runs her own business called the Delta CEO, complaining about a large presentation file (and, she claims, a potential client) she lost because of this problem. The CEO, sounding annoyed, immediately called Ms. Adewale, the director of the Consumer Service Department. He instructed her to meet with Mr. Akintola, director of research and design, to deal with the customer, to explore the problem, and to come up with some solutions "once and for all." Ms. Adewale is not looking forward to today's meeting since she and Mr. Akintola have a strained working relationship based on several problems on which they have worked together in the past.

2.1 Definition of Organizational Conflict

As this story demonstrates, organizations and the individuals in roles and in groups within those organizations experience conflict both in interaction with external forces and from within. Here, there is conflict between Delta Computers and external forces: its customers. There is also internal conflict between members of the management team: its employees. The conflict between Delta Computers and the customer is the result of dissatisfaction and unmet expectations; the conflict between Ms. Adewale and Mr. Akintola stems from interpersonal dealings that have uncovered differences in the way each regards the importance of customer satisfaction. In one instance, the conflict stems from the product that Delta currently produces; in the other, from past conversations.

If conflict is an organizational fact of life, neither good nor bad, then what exactly is it? In the context of organizational discourses, conflict is an expression of dissatisfaction or disagreement with an interaction, process, product, or service. This dissatisfaction or disagreement can result from multiple factors: differing expectations, competing goals, conflicting interests, confusing communications, or unsatisfactory interpersonal relations (Costantino and Merchant (1996). Examples include an employee's disagreement with her performance appraisal; a manager's concern with how resources are allocated; the production department's dismay with the sales department's marketing of an important product; a contractor's displeasure with the procurement process; a customer's anger over the lack of technical support after product purchase. In the Delta Computers example, the customer is dissatisfied with the product, the CEO may have an unmet expectation that the problem should have been raised and resolved at a lower level, and Ms. Adewale is concerned that she has to deal with Mr. Akintola.

Thus, conflict may be defined as *a struggle or contest between people with opposing needs, ideas, beliefs, values, or goals*. Conflict on teams is inevitable; however, the results of conflict are not predetermined. Conflict might escalate and lead to nonproductive results, or conflict can be beneficially resolved and lead to quality final products. Therefore, learning to manage conflict is integral to a high-performance organization. According to Ziegenfuss (1988), although very few people go looking for conflict, more often than not, conflict results because of miscommunication between people with regard to their needs, ideas, beliefs, goals, or values.

Conflict management is the principle that all conflicts cannot necessarily be resolved, but learning how to manage conflicts can decrease the odds of nonproductive escalation. Conflict management involves acquiring skills related to conflict resolution, self-awareness about conflict modes, conflict communication skills, and establishing a structure for management of conflict in an environment (Kolb and Bartunek, 1992).

Conflict is thus a process, not a product. Organizational conflict is really an organizational indicator of dissatisfaction. By moving toward a concept of conflict as a process, we move away from the idea that conflict is a tangible "problem" that can be solved, tamed, managed, or controlled. Rather, conflict is an interaction, a signal of distress from within or outside the system. Obviously, the organization or the individuals within it may choose not to respond to the distress call (for what may be perfectly legitimate reasons), but that does not mean that the conflict ceases to exist. For example, the Delta Computers may conclude that the problem with the Hole-

in-One software is a glitch that occurs only with home customers who are not sophisticated users. Delta may choose not to redesign the product, not to refund the customer's money, or not to replace the software; this does not mean that the conflict has gone away or does not exist – it simply means that Delta has chosen to do nothing about it in this instance.

2.2 Identifying Conflict in Organizations

People frequently use the terms dispute and conflict interchangeably but they are not synonymous. Conflict is a process; a dispute may be one of several products of conflict. Conflict is the process of expressing dissatisfaction, disagreement, or unmet expectations with any organizational interchange; a dispute is one of the products of conflict (Rahim, 1992). In the above example, if Delta chooses to do nothing about the conflict and the dissatisfied customer files a lawsuit, the conflict has escalated to a dispute. The conflict is the process and state of dissatisfaction; the dispute is the product of the unresolved conflict (Goldberg, Sander and Rogers, 2004). According to Kressel and Pruitt (1989), whereas conflict is often ongoing, amorphous, and intangible, a dispute is tangible and concrete—it has issues, positions, and expectations for relief. Collections or clusters of disputes are simply one of the many ways that conflict manifests itself in an organization. Moore (1986) suggests that conflict in an organization shows up in several ways:

- *Disputes*: Grievances, disciplinary actions, complaints, lawsuits, strikes, threatened legal action, and disagreements (whether with internal parties or outside disputants) are all signs of dissatisfaction and unresolved conflict. Disputes are usually the most visible evidence of conflict; they are the by-product of conflict.
- *Competition*: Some organizational conflict manifests itself more subtly than as outright disputes. Competition, particularly within an organization or between and among subunits and individuals within an organization may also be a sign of emerging conflict. Obviously, not all competition is a form of conflict. For example, healthy competition with other companies that produce and market the same product is normal and expected. More serious, however, may be the conflict generated by uncontrolled, aggressive competition between or among work units or colleagues within the company itself.
- *Sabotage*: This not-so-subtle manifestation of conflict can be seen in both internal and external conflicts—for example, when the customer says everything is fine and then without notice holds a press conference to announce the filing of a one-hundred million-naira lawsuit for gross negligence in the production of a product. Sabotage may also be at work when there is a “turf” battle between divisions and when innuendos about managerial competence and integrity begin to surface and spread.
- *Inefficiency/lack of productivity*: Slow work, deliberate delay, or decreased output can be evidence of conflict. Hidden conflict can lead a disgruntled yet vital employee to refuse to participate efficiently and meaningfully as part of a team effort.
- *Low morale*: Similar to inefficiency or lack of productivity, low morale is often a reaction to hidden conflict. Often, it is the result of attempting to avoid or deny conflict or of frustration with attempts to protest organizational action or inaction. Employees get weary of being retransferred, restructured, or reinvented yet again. With no mechanism for dealing with their frustration, they often lose energy, morale, and motivation.
- *Withholding knowledge*: Within many corporate cultures, knowledge is power, and withholding knowledge (information) is practiced as a form of control. Such behaviour is often a sign of distrust, status hierarchies, and an “information caste system.” Only certain people are entitled to know certain information; information is shared according to status (title, seniority, or office size and location). Similarly, in transactions with outside parties, withholding information may also be a sign of hidden conflict and distrust.

3. Organizational Responses to Conflict

Organizations have a multitude of ways to respond to conflict, choosing a particular method in light of perceived importance, context, or players. Thus, to a certain extent, organizational responses to conflict are situation-or context-specific. They may also depend on whether the individual is operating on an interpersonal, intergroup, or inter-organizational level. Moreover, organizational responses to conflict do not occur separate and apart from the organizational “culture,” or the attitudes, practices, and beliefs of the system and its members (Janosik, 1987; Ogbor, 2002). The “way we do things around here” provides the collective lens through which the organization and its key players view internal disagreement or external threat (Ogbor, 2011).

It is easy to observe how organizational culture affects responses to conflict and leads to a variety of reactions. For example, organizations with a “warrior” mentality of “winning at all costs” usually have an evolved corporate culture that furthers that goal and that is mirrored as well in the methods employed to control and fight the threat of conflict. Thus, the initiation of a complaint or filing of a lawsuit generates an immediate and belligerent response, accompanied by threats and intimidation.

According to Hocker and Wilmot (1985), often, no efforts are made to initiate settlement discussions until both parties to the dispute are at the brink of an all-out war. Such methods of conflict management allow the organization to remain congruent with its dominant culture. The entire organizational system does not have to be “warrior-like” to have subunits within it that take on the characteristics of the warrior, either through the special skills needed in the subunit, recruitment of personnel from other warrior cultures, or subunit leader preference. For example, units of security personnel at universities, hospitals, and government agencies may develop a subset warrior culture unaffected by the more dominant cultures of learning, healing, or serving within which they operate.

Costantino and Merchant (1996) have developed two types of organizational responses to conflict, which are usually defined and insisted upon by the organization’s culture. These responses can be grouped into the following general categories of “fight” or “flight”:

❖ **Fight responses:**

- *Arrogance:* The “paternal” or “we’re above it all” approach to conflict. For example, a response from the Federal Government of Nigeria to ASUU may be: “Well, you know how these lecturers behave—always unhappy about something and thinking they’re entitled to more. What do you expect from them?” One can identify this type of response through comments or observations that belittle the disputants themselves rather than seek to identify the root causes. Those in charge determine whether to address the issues of the less empowered and in what fashion, leading to a resolution of conflict that is for or on behalf of disputants, not with them.
- *Engagement:* The “bulldozer” approach to conflict, often evidenced by military words and analogies: “We’re right and we always win; we fight on principle. It’s a strategic decision we’ve made; how dare you question our tactics or suggest we did something wrong? We’ll outspend, out lawyer, outgun, and outmaneuver you, so why don’t you just give up now?” This approach often leads to the import of “hired guns,” experts and consultants to fight the war and do the dirty work of resolving the conflict.

❖ **Flight responses:**

- *Denial:* The “blanket over the head” approach to conflict: “We are one big happy family”—a dysfunctional family, perhaps, maintaining the image that all is well no matter what evidence exists to the contrary! This approach often leads to “crazy making,” of individuals within the organization thinking that they are crazy because they see and feel and experience conflict that the organizational culture denies.
- *Avoidance:* The “ostrich head in the sand” approach to conflict: “We transfer our problem employees or restructure our programmes to deal with conflict, with the result that we get rid of it.” This approach stems from an assumption that if you move conflict to another venue, it “goes away,” but instead it often leads to programmatic occurrence.
- *Accommodation:* The “please don’t make waves” approach to conflict: “We’ll give whatever relief is necessary, but please, please don’t let anyone know that we’ve had this problem.” This approach attempts to resolve conflict by appeasing the disputants in exchange for a promise to keep the settlement terms, and the very incident of disagreement, confidential. In a sense, it is the action combination of denial and avoidance among organizational responses to conflict. Traditionally in Nigeria, this has been the dominant approach adopted by many multinational oil companies in their attempt to deal with their host local communities in instances of oil spillage.

Two additional points are worth noting. First, many organizations choose not to resolve their own disputes for political reasons – their outside counsel, accountants, management consultants, and experts do that for them. These are like mercenaries; they get paid to do battle on behalf of the organization. In this way, the executives and other significant organizational players can distance themselves from the dirty work of engagement and can appear to stay congruent with the higher purposes of the organization’s mission as a whole. For example, Delta Computers might decide to have an outside law firm rather than its in-house legal department handles the lawsuit so that it does not appear to be directly taking on a customer.

Secondly, some organizations, as well as systems and individuals within that organization, may actually benefit from unresolved conflict and therefore may have little incentive to uncover, manage, control, or resolve it, even when conflict is counterproductive and destructive. In-house legal departments, case processing divisions, and outside counsel fall potentially into this category. Their mission—their *raison d’être*—is to be the point of contact and confrontation for the “cases” that surface within an adversarially based method and culture of resolving disputes. In order to continue to operate and to thrive, such units within and outside the organization have a deep economic and often philosophical commitment to seeing the warrior-like methods endure.

3.1 Effectiveness of Organizational Responses to Conflict

How effective are these organizational “fight or flight” responses? Ask the CEO who spends a fortune of the company a year on legal fees and expenses. Ask an employee whether she thinks the organization is one big

happy family. Ask the manager who has just had a problem employee transferred into his division or had his section reorganized yet again.

According to Singer (1994), measuring the effectiveness of conflict management involves looking at the results of dispute resolution efforts, the durability of the resolutions, and the impact on relationships. The effectiveness of conflict management efforts can be measured quantitatively or qualitatively; it can focus on the delivery of conflict management services or the results of conflict management interventions.

Murray (1990) suggests that in evaluating effective conflict management systems, the issues of durability and collateral effects of solutions are applicable worth discussing here. By transferring the problem employee, the immediate dispute is “resolved,” but is it a durable solution? Will the employee end up being transferred again? Perhaps the company won the 500 million Naira patent infringement suit that ate up billions of Naira and resources for the past five years, but what happened to its reputation in the marketplace and its relationship with its customers and licensees? The bottom line is that dispute resolution may have been successful according to the traditional organizational definition in that the dispute “went away,” but was the resolution an effective one? Did it actually deal with the underlying conflict? Did it address the real problem or did it just mask a symptom of even greater conflict brewing? Is it worth it if Delta Computers eventually wins the individual law-suit but later has to defend a class action for deceptive marketing or unfair trade practices when it surfaces that the glitch actually does exist and that Delta Computers knew about it and did not disclose or remedy it?

According to Ertel (1991), most organizational representatives, when asked about the effectiveness of their dispute resolution system, note the high cost of financial and time spent in resolution efforts and litigation but also in terms of the negative impact on important, ongoing relationships—both within and outside the organization—with employees and customers. Increasingly, organizations are looking to alternative methods of dispute resolution (ADR) and accompanying techniques to manage conflict. They are asking organization development (OD) consultants, human resource (HR) managers, attorneys, and other professionals for help in improving the effectiveness of their conflict management systems as a whole.

4. Managing Conflict through Alternative Dispute Resolution

Some organizations have moved toward more systemic approaches to conflict management. Others continue to use fight or flight methods to deal with conflict or to avoid it. In the middle are those organizations that have designed an alternative dispute resolution (ADR) approach or programmes to deal with particular types of disputes. According to Barkai (1996), these ADR programmes usually grow out of a perception by management, consultants, attorneys, or the disputants themselves that traditional methods of dispute resolution are neither working as well as they should nor furthering the organization’s goals. Practitioners have frequently used the principles of dispute systems design (DSD) to help organizations establish such alternative dispute resolution programmes or processes for settling disputes (Barkai, 1996).

4.1 The Emergence of Alternative Dispute Resolution

ADR is any method of dispute resolution other than formal adjudication such as court litigation or administrative proceedings. ADR is not a fancy, new approach but rather an alternative, which is characterized by common sense and flexibility involving the use of a wider array of approaches to resolve disputes than the traditional and often more costly methods of adversarial litigation and administrative adjudication.

Like conflict, ADR permeates our lives. Everyone engages in ADR every day: you negotiate with your co-worker about where to go to lunch, you call in your neighbor to “mediate” as you and your spouse try to reach agreement on what colour to paint the living room, you arbitrate by deciding whether your son or your daughter will get the family car for the evening based on the strength of their respective arguments.

In the United States and elsewhere in the developed economies, more and more corporations, businesses, individuals, groups, organizations, and courts are embracing ADR as a better way to resolve disputes. Some contract disputes are arbitrated, many labour-management disputes are mediated, and, increasingly, consumer complaints are handled by ombudspersons. Thus, for those practitioners and managers who will be involved in designing and improving “next generation” conflict management systems, an understanding of ADR is essential. Why has ADR become so popular? What are the various types of ADR and when are they appropriate? Is there a “dark side” to ADR?

4.2 Explosion of Interest in ADR

Organizations are using it, law firms are marketing it, and courts are requiring it. Why? There are a number of reasons for the interests in the use of ADR.

- *Overloaded court dockets:* Much has been written about the litigiousness of our society, how organizations and individuals, including defeated politicians, use the courts as the “neighborhood bully” to keep people in line and to protect themselves and their reputations. As a society, we look to our courts to resolve disputes that other cultures resolve on an informal, individual, or group basis. The

result of this litigation mind-set and the mountains of new laws, rules, and regulations promulgated every year has been an exponential increase in the number of cases handled by courts at the local, state, and federal level. Nigeria, court dockets are backlogged; it is not uncommon for a civil case to take four to five years to actually go to trial.

- *Increasing cost and decreasing satisfaction with litigation:* Many companies and individuals have grown frustrated with the cost of litigation—in naira, in personnel time, in lost opportunities, and in the negative effect on ongoing business and employee relationships. Not only have the costs of outside counsel and experts increased but so have those of in-house counsel through overhead and support services. As a result, many corporations have embraced ADR. For example, Motorola now requires that ADR be considered in all of its cases and has shifted the presumption by requiring its employees to demonstrate why ADR cannot be used (Weise, 1989). Similarly, in the US, many corporations have taken the Center for Public Resources' (CPR) "pledge" to use ADR prior to resorting to litigation with other corporations who have also taken the CPR pledge; many law firms have taken a similar CPR pledge to advise clients of ADR options.
- *Backlash against attorneys, lawsuits, and legal costs:* As a society, we love to hate lawyers; they are the brunt of endless jokes. But many are laughing all the way to the bank. Some large law firms have been known to bill 200,000 Naira an hour for their services, not including the charges for the hordes of paralegals, experts, consultants, and administrative personnel needed to support them. Organizations are beginning to doubt the need for such high-priced "hired guns" to resolve their disputes. ADR is seen as a less expensive way to resolve disputes, often obviating the need for lawyers or limiting the types of disputes where they are involved.
- *Societal movement toward more natural and humane methods of dispute resolution:* In the United States and other European countries, organizations, groups, and individuals have grown tired of battering and bashing each other in the name of resolving conflict. In the last ten years, there has been an increased emphasis on communication and working together to informally resolve differences through problem solving. "Being tough" and "going for the kill" have given way to more humane dispute resolution methods, including forms of ADR in which the disputants themselves participate more actively in the resolution process. The former methods of amplifying, accelerating, and escalating conflict through litigation and other adversarial methods are in many instances no longer a good fit with evolving societal norms.
- *Desire to empower disputants to participate in resolving their own disputes:* Self-direction and governance, total quality management, and other participatory models for employee involvement have encouraged the inclusion of disputants in the dispute resolution processes affecting them. In many of its forms, such as mediation and joint problem solving, ADR permits the disputants to craft their own solutions to disagreements. If ADR results in resolution, it is the disputants' success, not the neutrals. The disputants own and control the ADR process and often craft solutions unique to their circumstance, which they are then more committed to implement.
- *Increasing interest in flexible dispute resolution:* There has been a growing realization that all disputes do not require the same mechanisms for resolution. For example, we currently channel many different types of disputes through the same courthouse doors: antitrust cases, commercial disputes, personal injury cases, neighborhood conflict. In the developed parts of the world, increasingly, however, judges are experimenting with the "multidoor courthouse" in which certain types of cases are funneled first through ADR corridors before they are placed onto a court docket. Some disputants have become so discouraged with crowded court dockets that they hire private "rent-a-judges" or use private mediators or arbitrators instead of judges to resolve their disputes. ADR is seen as a way to introduce flexibility into the dispute resolution process—to tailor the process to the problem.
- *Interest in confidentiality and avoidance of publicity:* Organizations and individuals alike are often reluctant to "air their dirty linen" in public. For example, mediation on the whole is a discreet process and the results can usually be kept confidential. This is often not true with court cases: the proceedings are usually open to the public and even if there is a settlement before the trial starts (or before its conclusion); some judges refuse to seal settlements, to limit public access, or to restrict disclosure. ADR can thus be used to shield disputes and settlements from public scrutiny and to prevent disclosure of repeated violations by the parties or defendants. ADR, however, can only work well under certain conditions. As Costantino and Merchant (1996) astutely stated, ADR, as a method of dispute resolution must be appropriate for the particular dispute or problem. In other words, there must be a fit between the process and the problem. ADR methods are not necessarily interchangeable; mediation may work in some disputes, early neutral evaluation in others, and ombudsman in still others.

Practitioners involved in ADR, have complained in some instances of the failure or inadequacies of ADR methods in resolving organizational conflicts. Our point in this paper is that, often, the problem is not that the

ADR was inappropriate for the particular organization; rather, the method of ADR chosen was inappropriate for the particular dispute. For example, an imposed method of ADR was used when perhaps a facilitated method would have been more appropriate or congruent with the organization's mission, culture, or disputes. Unfortunately, as most practitioners know, managers and disputants rarely make this distinction, and the conclusion that is drawn (perhaps incorrectly) is that ADR as a whole does not work. For this reason, it is important that practitioners and academicians be familiar with the entire spectrum of ADR options so that they can accurately advise disputants and stakeholders as they design conflict management systems together.

4.3 The Dark-side of ADR

It is apparent, from the forging discussion, that ADR, as an alternative dispute resolution method, has its own pros and cons. As an alternative dispute resolution method there are instances when its application is appropriate or when it is preferred over traditional methods of dispute resolutions. In the following pages, we discuss some of the negative sides of alternative dispute resolution.

First, the use of ADR as a method of conflict resolution has raised questions about private justice and whether only the wealthy or resource-rich can afford to buy it (Costantino and Merchant, 1996). The argument against the use of ADR as a method of conflict resolution seems to be that those who could not afford it, those who look to the courts as the last bastion of justice are deprived of their fundamental rights in the sense that courts have approved the use of alternative dispute resolution methods over traditional court arbitration methods because of the reasons adduced to it in a preceding section.

Second, the question of whether some disputes are simply inappropriate for ADR also arises. For instance, should domestic violence cases be kept out of court-ordered mediation on the theory that there is such an imbalance of power between the parties, even if represented by counsel, that the process is invalid and somehow flawed? Should cases raising constitutional issues such as violations of civil rights laws or sexual and ethnic discrimination laws, be deemed inappropriate for ADR and steered through more traditional door of litigation? Should certain public policy issues, such as disposal of environmental toxins or oil pollution, be reserved for the judgment of courts or administrative bodies?

A third reason where ADR may be inappropriate is where it is used to cover up systemic or repeated violations. For example, a hypothetical federal agency (NAFDEC) may have an ADR programme that makes mediation mandatory for all drug abuse cases prior to the filing of a formal action or complaint. In Nigeria, it is known that many cases are resolved at the mediation stage, and almost all of the remaining parties settle before an actual investigation is conducted. Here, there may be both ethical and public policy reasons to question using ADR in this fashion. Although formal processes remain available to the complainants, it may appear that this agency uses mediation and negotiation (e.g., out-of-court settlement) to resolve these disputes in order to shield them from public domain and scrutiny. In particular, as such agencies are public funded entities; they are subject to relevant federal laws and regulations regarding their functioning. Thus, using ADR in this manner may raise serious ethical issues and violate the core principles of openness and feedback in conflict management systems design. By using ADR as a method of preventing public disclosure of statutory violations, this agency may be co-opting the process for its own organizational interests and benefits.

The fourth reason is that it may be inappropriate to require the disempowered to use ADR mechanisms where they have been given no choice in the matter, do not understand their rights and choices for alternative relief, or have had no hand or representation in creating the dispute resolution mechanisms in the first place. For example, this may be so in our hypothetical agency if many of the drug abuse complaints are filed against pharmaceutical companies by those who do not understand that being required to participate in mediation does not mean that they lose their rights to pursue more formal methods of resolution.

As we can see from the preceding discussion, ADR has its own shortcomings, which lead us in the following pages to examine the possibilities for employing another method of managing conflict effectively, which are grounded in the principles of interest-based conflict management system.

5. Interest-Based Conflict Management System

An interest-based conflict management system is simply what it is; it is a system of conflict resolution which is based on the identification and provision of the stakes or interests of the parties involved in the conflict. It is simply further movement along the continuum of the historical development of dispute resolution and conflict management. As Figure 1 below indicates, we see this "evolution of resolution" continuum as having four "quadrants," which represent how organizations have historically developed their approaches to managing conflict. Based on the works of Costantino and Merchant (1996), we see organizations moving increasingly into Quadrant IV as the next generation of conflict management: interest-based methods of dispute resolution created through interest-based processes of conflict management systems design.

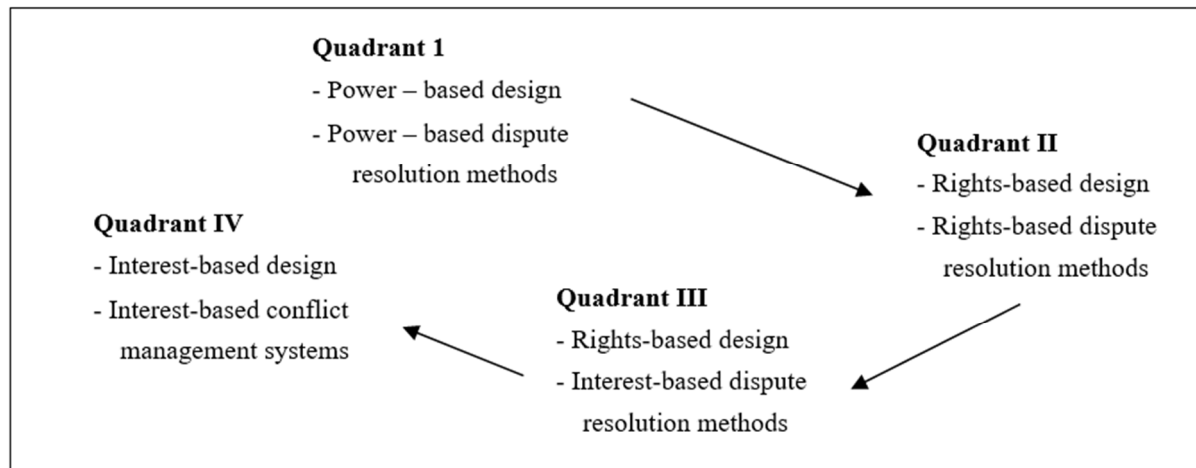


Figure 1: Evolution of Conflict Resolution Continuum

Table 1: Comparison of Method and Design Characteristics in Conflict Management Systems.

Quadrants	What: Method	How: Design
Quadrant I	Power-Based Methods	Power-Based Design
Quadrant II	Rights-Based Methods	Rights-Based Design
Quadrant III	Interest-Based Methods	Rights-Based Design
Quadrant IV	Interest-Based Methods	Interest-Based Design

In Quadrant I, organizations are dominated by the belief that they must fight for survival against their workers, their competitors, and their environment. The rewards of risking capital to organize a company can lead to beliefs that the owners are in charge and are entitled to dominate all facets of their milieu. In this environment, disputes are seen as highly threatening. Historically, the rise of the Nigerian union movements (especially ASUU) and the relations between the Federal Government, university authorities and their academic staff from the late 1970s to date illustrates this type of dispute resolution system. There was an explosion of strikes involving property damage, the use of force, violence, and death: power-based methods of dispute resolution through power-based design.

In Quadrant II, the focus is on rights and entitlements, which are imposed. In this stage of dispute resolution systems development, organizations and interest groups usually take their disputes “off the streets” because the cost is deemed to be too high to institutions, groups, individuals, and society. The usual pattern is to provide legislative frameworks for determining who is right and then to pursue such rights through litigation and the courts. These rights-based methods are imposed through rights-based designs, which relieve the system of the high costs associated with violence and other power-based contests. Gradually, the system and its organizational players experience patterns of case law development, which provide precedent and guidance in sorting through the daily need for dispute resolution. Organizational players conform to these patterns and the system settles down for a while. Historically, in the United States, one can also point to the civil rights cases and legislation of the 1950s and 1960s as examples of Quadrant II dispute systems design: rights-based methods imposed through rights-based processes (courts and legislation).

In Quadrant III, organizations use interest-based methods of dispute resolution but design them in a rights-based manner: the organization uses ADR but imposes the ADR mechanisms on the disputants without identifying their concerns or preferences and without involving them in the design process. Those with a stake in the resulting system are left out of the process—the organization designs and decides for them, not with them, frequently with the advice of ADR “experts.” According to Kolb and Bartunek (1992), this is where most organizations are today, particularly in their use of ADR. Examples include mandatory, court-ordered ADR and mandatory employee dispute mediation programmes. Confronted with the high costs of using the rights-based forums and dissatisfied with the resulting “win-lose” impact on ongoing relationships, organizational leaders have flocked to ADR courses to learn the newer and perhaps more enlightened methods of resolving disputes. The problem, however, is that these approaches are often imposed or required through rights-based designs, with little or no input from institutional or individual stakeholders.

The resistance that practitioners encounter to the acceptance and use of interest-based/rights-based methods of conflict resolution often stems from this incongruity. Resistance may also be a by-product of the disputants’ lack of information about the change and how it will affect their dispute or may result from a lack of skills needed to pursue and use interest-based resolution processes. Disputants may also be concerned that the new system has been devised as a smokescreen to dilute their mandated rights. All of these factors diminish

incentives to use an imposed system of interest-based resolution methods: interest-based methods through right-based design.

Quadrant IV is the direction in which many organizations are heading today; it is the next generation of conflict management, moving beyond imposed ADR regimes. Using interest-based conflict management systems design principles to create interest-based dispute resolution methods adds a congruency to the equation that has been historically absent. Such congruency makes the system more stable, more satisfactory, and more likely to be used by disputants. Here, the stakeholders have an active and integral role in creating and renewing the systems they use. This model has both a broader and a more customized focus than the other quadrants in that it admits and addresses the reality and inevitability of conflict within the organization itself, not just singular disputes with external entities.

Quadrant IV participative design processes usually lead to an understanding that conflict management systems, rather than dispute resolution programmes, yield optimal results and are more durable. It is an approach to design that leads to greater understanding and awareness among system participants that the causes of conflict are systemic, integrally connected to and in concert with the operation of other systems in the organization. As Lewicki and Bunker (1997) put it, this approach encourages the remedy of conflict systemically as well, building the capacity of the organization to learn about itself through the ongoing development of areas of disagreement and dissonance. Further, it allows system participants the opportunity to practice interest-based skills and joint problem-solving techniques, which stakeholders will need in order to use the system with satisfaction and empowerment. Lastly, designing interest-based methods through interest-based processes is both a partnering and a problem-solving process. When the system's stakeholders are involved collaboratively in the design process, they become true partners in identifying, understanding, and managing their disputes—and have a more vested responsibility for the successful operation of the conflict management system.

Table 2. Comparison of Conflict Management Systems

	Quadrant I	Quadrants II & III	Quadrant IV
Identity of Designer	Authority, Reactive	Expert Imposed	Stakeholder Derived
Attitude toward Conflict	Avoidance of Disagreements	Accommodation of Disputes	Acceptance of Conflict
Analysis of Conflict	Random	Rational	Realistic
Method to Manage Conflict	Control	Criteria	Collaborative
Focus Efforts	Institution	Individual Cases	Interest Groups
Key Players	Power Figures	Providers	Partners

5.1 Comparison of Conflict Management Systems

The distinctions among the four quadrants in the evolution of resolution continuum are perhaps best understood by comparison, as seen in Table 1.

- *Identity of the Designer*: In an authority-reactive system, dispute resolution is dictated by those in charge within the organization. They decide how disputes will be handled and impose their decisions on the disputants. This method of designing dispute resolution programmes is most common in Quadrant I systems, where power and rights-based approaches to conflict management dominate. In expert-imposed systems, consultants (usually from outside the organization) diagnose the disputes, design a new system based on what they think is best for the organization, and recommend that their design be adopted. Design is thus a product, not a process. This method of design is usually found in Quadrant II and III systems, where, for example, management makes the decision (rights-based design) that mediation (interest-based method) will be offered. Many of today's ADR programs fall within this category. In Quadrant IV, stakeholder-derived systems, the stakeholders actively participate in the design, which is a process, not a product. Stakeholders may be guided by an expert or specialist, but the design is done by the stakeholders and with the stakeholders, not for them.
- *Attitude toward Conflict*: This category explains how the organization views conflict in its many forms. In Quadrant I systems, the preferred method of conflict management is avoidance of disagreements; conflict is seen as signaling a challenge to authority and thus the proper response is assertion of control. This is the "how dare they challenge us" approach—"they" being contractor, employee, customer, or claimant. Alternatively, the system equates disagreement with unhappiness and has a low tolerance for it. In such an organization, denying or avoiding disagreement produces the least discomfort and the most control. In Quadrants II and III, there is a recognition and validation of the existence of singular or clusters of disputes but not of conflict as a broad concept. Disputes occur that must be "fitted" to the courts, legislation, case law, or other standardized attempts to manage conflict; thus, disputes are accommodated. An organizational attitude such as this admits that disputes exist but does not see or admit the existence of conflict. There is little, if any, effort to anticipate conflict or disputes, to use

preventive interventions, or to be concerned about the effect of conflict on people. Often, such organizations have great difficulty with disputes that are deeply imbedded in personalities, organizational culture, or system wide practices because such disputes do not fit the existing framework or are resistant to standardized resolution attempts. Quadrant IV systems sharply contrast with all of the others in that there is an acceptance of conflict as inevitable and natural: conflict is seen as an opportunity, not an obstacle. According to Moore (2009), these organizations design flexible conflict management approaches that accept the organization as it is at the present time, facilitate disputants' participation in the system, and provide a range of options for the settlement of disputes. In Quadrant IV attention is given as well to the prevention of disputes and to the development of skills so that system participants will experience the greatest range of choice in their problem-solving efforts.

- *Analysis of Conflict:* Here we see that Quadrant I systems are random in the way they handle disputes, dealing with them on an ad hoc basis as they arise, with a reactive rather than a proactive posture. In Quadrant II and III systems, there is a rational approach to disputes—organizations can study them, classify them, categorize them, and, eventually, predict and stabilize them. This linear, Western method of categorizing disputes requires that disputes fit into a standard category, which practitioners note is increasingly rare (Gulliver, 1979). The Quadrant IV system provides a sharp contrast once more with its realistic (and dynamic/spiral) approach toward conflict—appreciation of conflict's ever changing nature, its inherent polarities, and its ongoing responsiveness to changing demographics, culture, and markets. In such a system, conflict yields critical and valued information and feedback about organizational performance, thus serving as one more means of improving it.
- *Methods to Manage Conflict:* In Quadrant I systems, organizations attempt to control conflict—avoid it, rename it, eradicate it, limit it, and deny it. The system's unstated fear is loss of control; its challenge is to control conflict by any means, even if it results in higher overall costs to the institution and individuals. In Quadrant II and III systems, organizations develop criteria for dealing with conflict, often linear and logic-based processes and procedures for handling disputes. Here, the assumption is that conflict lends itself to prediction, identification, and standardization. By contrast, Quadrant IV organizations collaborate with stakeholders about how to manage conflict and how to create conflict management systems that honor and enact the principles of participation, openness, and feedback. Embracing these values generates conflict management systems characterized by flexible approaches to resolution, appreciative inquiry into the pattern of disputes, and substantial efforts to address and eradicate systemic causes of conflict.
- *Focus of Efforts:* This category identifies who and what is the target of the organizational dispute system design effort. In Quadrant I systems, it is the institution or organization itself that is the all-important target. The state of the organization must be preserved at all costs and must be protected from the implied threat of conflict. In Quadrant II and III systems, the focus is on the ad hoc treatment of individual categories of disputes—events, cases, or dissatisfactions resolvable in isolation from each other. Quadrant IV systems focus instead on the interest groups (stakeholders: institutional, group, and individual) in the system as the target. Collective learning and feedback—from a variety of perspectives—about how well the organization is doing in its management of conflict as it relates to these interest groups is valued. By tapping into the whole system, both internal and external, organizational participants discover valuable information not only for adjustment and revision but also for creativity and growth. Thus, the target focus for the conflict management design effort in Quadrant IV systems is comprehensive and inclusive.
- *Key Players:* In Quadrant I systems, these are the power figures in the organization: they control the questions and they decide the answers. In Quadrant II and III systems, it is usually the providers—experts and consultants—who decide what is wrong, figure out how to fix it, and then impart their specialized (and often “superior”) wisdom and knowledge. In contrast, Quadrant IV conflict management systems identify both the organization and its stakeholders as partners in joint problem solving and in the design process, each with rights and responsibilities for the ongoing vitality and overall health of the organization.

6. Conclusion: Principles of Interest-Based Conflict Management System

Interest-based conflict management systems design takes the basic Organizational Theory (OT) principles of power, rights, and interests and applies them in an organizational context. As a way of concluding this paper, we examine nine relevant principles necessary to achieve a major of success in applying an interest-based conflict management system.

- *Focus on Interests:* Putting the focus on interests really means that the starting point in organizational conflict management becomes the statement, clarification, and illumination of the issue at hand from the perspective of the needs and concerns from the interest groups. In other words, rather than initially seeking

various means to cover up the core concerns that give rise to the dispute through positions (one party's idea of a solution) and other strategies to mask the real problem or concern, the conflict management system is designed to provide processes at the outset that promote and support the identification of such core concerns.

- *Providing Backups*: Providing backups, means that the conflict management system includes in its design the realistic awareness that initial efforts will not always be successful and that reasonable alternatives are necessary to provide for continued efforts to reach satisfactory resolutions. Often, the availability of these backups can serve as leverage: some disputants may be more willing to explore the unfamiliar and unpracticed world of interest-based problem solving knowing that if it fails, there is always arbitration of the dispute.
- *Building Consultation*: Building in consultation before and feedback after, suggests that the conflict management system be designed to encourage discussion about the nature of the dispute and optimal ways of resolving it before resolution efforts begin. Then, once resolved, the system requires that an evaluation process occur so the results of the resolution process can be assessed and a determination made of the need for system modification. In this way, the conflict management system is encouraged to be one that is more intentional, open, and engaged in an ongoing learning process to allow system adjustment and encourage dispute prevention.
- *Providing Motivation, Skills and Resources*: Providing motivation, skills, and necessary resources, focuses on those factors that enable the other four principles to succeed. Here, the conflict management system is geared toward participation of stakeholders and the empowerment of disputants to resolve their differences themselves with the least escalation of costs and minimal third-party intervention. For this to occur, resources must be expended early on to a broader community within the organizational system in order to build greater knowledge and understanding of conflict itself, resolution options, and processes. All of this provides greater motivation to system participants to use a revised system. Further, in a systemic organizational conflict management design, a wider universe of system participants are trained in the skills necessary to achieve the goal of more local and interest-based resolutions of disputes. In addition, by the very act of supporting the effort to institute alternative dispute resolution methods, organizational leadership signals that a new age of conflict management has arrived.
- *Participation*: Participation in interest-based design means involvement of all organizational levels in designing the conflict management systems that affect them. Each part of the organization has a purpose, population, and product that gives rise to disputes. By tapping into the entire system and its parts, an interest-based design process has the potential to address more disputes from a variety of perspectives.
- *Openness*: Interest-based conflict management design requires openness by all stakeholders to dialogue and to possible change; a mutual willingness on the part of both the organization and its stakeholders to explore interests and dissatisfactions directly, honestly, and in a true spirit of partnering; joint problem solving; and stewardship. As practitioners know, openness can be difficult in organizations. We believe that openness is a part of competence. It is a fact that no one knows everything, and anyone who seems to think otherwise is wrong. Mistakes that are admitted cause us to lose a little bit of respect. A lack of openness is also arrogant; it shows a lack of respect for us. Openness in the interest-based design process is really a matter of how people give and receive communication in the organizational context about the issue of conflict management.
- *Feedback*: Giving and receiving constructive feedback about dispute resolution practices and processes is integral to the learning and evolution of the organization's conflict management system. Feedback is a corollary concept to openness, to open systems thinking, and to the principles of interest-based conflict management systems design. It represents a willingness on the part of the stakeholders to offer useful comment and critique as well as a willingness on the part of the organization to consider valid comment and critique. Feedback as it relates to interest-based conflict management systems design requires both the ability and the willingness to ask how well things are working, to learn about what is not working, and to pursue making changes where necessary. In interest-based conflict management systems design, providing feedback is a right with corresponding responsibilities. Drawing forth comment or criticism is the first step. However, one cannot simply criticize or complain. One must also take part in the re-creation of the system; one has the responsibility to couple a complaint with a request for change.
- *Continual Change and Progression*: Interest-based conflict management design has one further characteristic that links it to OD and sets it apart from the classic ADR approaches. Instead of assuming stability and predictability in the management of conflict and disputes, it assumes almost continual change and progression. The model sees conflict management as an open system; there is a recycling, a renewal process that makes the design evolutionary, dynamic, and spiral in nature. This continuous improvement of the system through reevaluation and reflection ensures that it addresses the interests and needs of both the organization and its stakeholders. Interest-based conflict management systems design is thus not a one-time process where you do it once, put it on paper, and move on to the next project. Rather, this model of design

maintains openness to constant feedback in order to acquire information and opportunities for action. In this sense, interest-based conflict management design is about staying open and dynamic.

- *Stewardship*: Lastly, interest-based conflict management systems design honors the OD value of stewardship by all stakeholders, who assume responsibility for the health and continued vitality of the organization. There is a mutuality or partnership in such a design process: stakeholders are responsible for offering valid, constructive feedback with suggestions for change; the organization is responsible for encouraging and considering such feedback.

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