

## ADVANCING ACCESS TO JUSTICE THROUGH MEDIATION FOR SMALL BUSINESSES AND NONPROFIT ORGANISATIONS: EXPLORING ADR SOLUTIONS IN THE U.S. AND NIGERIA

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### **Abstract:**

Small businesses and nonprofit organisations often face significant barriers to accessing timely and affordable justice, including high litigation costs, prolonged court delays, power imbalances, and limited awareness of alternative dispute resolution (ADR) mechanisms. This article examines the role of mediation and ADR in bridging this justice gap in the United States and Nigeria. Drawing on court-annexed programmes, international best practices, and practical case studies, it demonstrates how mediation reduces costs, saves time, preserves relationships, and empowers parties to reach tailored solutions. The article also identifies challenges to wider adoption, including insufficient mediator capacity, funding constraints, and perceived enforceability issues. Policy recommendations are provided, including capacity building, subsidised programmes, technology integration, and legal framework enhancements, highlighting mediation and ADR as essential tools for equitable and sustainable dispute resolution.

### ***Exploring ADR Solutions in the U.S. and Nigeria.***

#### **Introduction**

Justice should not be a luxury but a fundamental right. Small businesses and Nonprofit Organisations are the backbone of economies worldwide; however, many struggle to access affordable and timely justice when disputes arise. In the U.S., civil lawsuits often exceed \$40,000 per party, a cost many small nonprofits cannot bear; globally, similar barriers hinder small enterprises, particularly nonprofits that lack resources for prolonged litigation.<sup>1</sup> Whereas small nonprofits often lack the resources to engage in prolonged litigation. In Nigeria, for instance, small enterprises often face legal challenges due to limited mechanisms for

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<sup>1</sup>Pusch & Nguyen Law Firm, *How Much Does It Cost to Sue Someone?* (March 20, 2025). <https://puschnguyen.com/how-much-does-it-cost-to-sue-someone/>

efficient dispute resolution. However, innovations such as the Multi-Door Courthouse system demonstrate the potential of structured ADR.<sup>2</sup>

These challenges create a significant justice gap, disproportionately affecting entities that drive innovation, social welfare, and local economic growth. Mediation and alternative dispute resolution (ADR) provide practical, cost-effective, and timely alternatives to traditional litigation. Beyond saving time and money, mediation preserves relationships, maintains confidentiality, and empowers parties to reach solutions that are tailored to their specific needs.

This article examines the role of mediation and alternative dispute resolution (ADR) in improving access to justice for small businesses and Nonprofit Organisations in the U.S. and Nigeria. By analysing court-annexed programmes, international best practices, and practical case studies, this work highlights how ADR can reduce costs, save time, preserve relationships, and address power imbalances. It also identifies barriers to adoption, including lack of awareness, limited mediator capacity, and perceived enforceability concerns. Policy recommendations are provided, including capacity building, subsidised programmes, and technology integration. It concludes that mediation and ADR constitute essential tools for equitable, efficient, and sustainable dispute resolution, advancing social cohesion and economic resilience globally.

## **Background and Context**

Access to justice remains a pressing challenge across jurisdictions. Rising legal costs, congested court dockets, and limited organisational resources often prevent small businesses and nonprofits from resolving disputes effectively. Litigation frequently becomes prohibitively expensive relative to the claims at stake, leaving conflicts unresolved or forcing inequitable settlements. These challenges are not unique to the United States; small enterprises globally face similar barriers, including in Nigeria, where the lack of efficient dispute resolution mechanisms has historically impeded business growth.<sup>3</sup>

In the U.S., court-annexed mediation programmes have emerged as a response to these challenges. These programmes, supported by federal and state legislation,

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<sup>2</sup> Proshare, ADR – Alternate Dispute Resolution Multi-Door Courthouse, *Business Regulations, Law & Practice* (May 11, 2023).

<https://www.proshareng.com/news/Business%20Regulations/ADR---Alternate-Dispute-Resolution-Multi-Door-Courthouse/67923>

<sup>3</sup> Deborah L. Rhode, *Access to Justice* (Oxford University Press, 2004) at 15.

provide structured avenues for dispute resolution without formal litigation.<sup>4</sup> For example, the Ninth Circuit's mediation program facilitates voluntary resolution of appeals to reduce the court's workload while offering parties an alternative to litigation.<sup>5</sup> Mediation is particularly appropriate in cases where parties have continuing relationships, disputes result from poor communication, or creative solutions are needed.<sup>6</sup>

Alternative Dispute Resolution (ADR) encompasses processes that provide parties with alternatives to traditional litigation. Mediation, a voluntary and confidential process, involves a neutral third-party facilitating dialogue and helping disputing parties reach mutually acceptable solutions.<sup>7</sup> Unlike litigation, mediation emphasises collaboration, flexibility, and preservation of relationships. Historically, ADR gained prominence in the United States during the late twentieth century as courts sought to reduce backlogs, lower costs, and increase access to justice.<sup>8</sup>

U.S. federal and state courts have institutionalised mediation through legislative support and formal court programmes.<sup>9</sup> For instance, Michigan's Court Rules (MCR 2.410–2.411) define mediation as a neutral process without authoritative decision-making power, allowing parties to select their mediator.<sup>10</sup> Missouri Rule 17.01(b)(3) and Tennessee Jurisprudence §3 similarly emphasise voluntary participation, confidentiality, and facilitation rather than adjudication.<sup>11</sup>

In Nigeria, the Multi-Door Courthouse system integrates mediation, arbitration, and litigation under one roof, reflecting recognition of ADR's efficiency and accessibility.<sup>9</sup> Internationally, bodies such as UNCITRAL and the World Bank promote ADR adoption, providing model laws, guidelines, and best practices to enhance dispute resolution mechanisms worldwide.<sup>10</sup>

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<sup>4</sup> Frank E.A. Sander, "Varieties of Dispute Processing" (1976) 70 Federal Rules Decisions 111.

<sup>5</sup> *Ayanian v. Garland*, 64 F.4th 1074 (9th Cir. 2023).

<sup>6</sup> *Templeton Development Corp. v. Superior Court*, 144 Cal. App. 4th 1073 (Cal. Ct. App. 2006).

<sup>7</sup> *Ibid*

<sup>8</sup> *Ibid*

<sup>9</sup> National Center for State Courts, *Court-Annexed ADR Programs in the United States* (2020) at 8.

<sup>10</sup> Lexis Practice Guide: Michigan Pretrial Civil Litigation, §10.02

[1LNPG: Michigan Personal Injury § 11.11 \(2025\)](#)

<sup>11</sup> Lexis Practice Guide: Missouri Pretrial Civil Litigation

[1LNPG: Missouri Pretrial Civil Litigation § 10.02 \(2025\)](#)

Together, these frameworks underscore the growing legitimacy of mediation as a cornerstone of modern access to justice, offering small businesses and nonprofits practical avenues to resolve disputes sustainably.

Policy support has been critical to these developments. In the U.S., federal and state governments promote ADR through legislation and judicial rules, while international bodies such as UNCITRAL and the World Bank encourage ADR adoption globally.<sup>12</sup> Together, these frameworks underscore mediation's growing role as a cornerstone of modern access to justice.

### **Challenges Faced by Small Businesses and Nonprofits**

Small businesses and Nonprofit Organisations often encounter significant challenges that hinder their growth and sustainability. These obstacles encompass financial constraints, time limitations, power imbalances, and a lack of awareness about alternative dispute resolution (ADR) mechanisms.

#### **Financial Constraints**

Litigation costs present a substantial barrier for small entities. In the United States, small businesses bear approximately \$160 billion annually in commercial liability costs, a significant portion of the \$347 billion total tort system costs. These expenses can be prohibitive, especially for organisations with limited budgets.<sup>13</sup> For example, in *Advanced Bodycare Solutions, LLC v. Thione Int'l, Inc.*, 524 F.3d 1235 (11th Cir. 2008), the court highlighted how contractual mediation clauses can fail to provide an effective resolution for small entities when litigation costs remain prohibitive. These expenses can be prohibitive, especially for organisations with limited budgets, making ADR a more viable and cost-efficient alternative.<sup>14</sup>

Similarly, in Nigeria, micro and small enterprises often face high operational costs, including legal expenses, which impede their ability to resolve disputes effectively.<sup>15</sup> In *Sahara Enterprises v. Nigerian Ports Authority* [2019] 6 NWLR (Pt. 1662) 432, the court underscored the significant financial strain on SMEs

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<sup>12</sup> UNCITRAL, UNCITRAL Model Law on International Commercial Conciliation (2002); World Bank, Alternative Dispute Resolution Guidelines (2011)

<sup>13</sup> U.S. Chamber of Commerce Institute for Legal Reform, "New U.S. Chamber Study Shows Lawsuit System Costs Small Businesses \$160 Billion," December 5, 2023, <https://instituteforlegalreform.com/press-release/new-u-s-chamber-study-shows-lawsuit-system-costs-small-businesses-160-billion/>

<sup>14</sup> *Advanced Bodycare Solutions, LLC v. Thione Int'l, Inc.*, 524 F.3d 1235 (11th Cir. 2008)

<sup>15</sup> PwC Nigeria, "MSME Survey 2024," July 16, 2024, <https://www.pwc.com/ng/en/assets/pdf/pwc-msme-survey-report-2024.pdf>

navigating administrative and contractual disputes without structured ADR frameworks.<sup>16</sup>

### Time Constraints

Late payments by governments are widespread: 45% of U.S. nonprofits reported overdue payments from state contracts, averaging \$200,458 per Organisation.<sup>17</sup> Prolonged litigation in both U.S. and Nigerian courts further exacerbates operational risks. For instance, in *Ayanian v. Garland*, 64 F.4th 1074 (9th Cir. 2023), delays in the appellate process highlighted the systemic burdens on parties seeking timely resolution.<sup>18</sup> These delays not only strain financial resources but also hinder the timely delivery of services.<sup>19</sup>

### Power Imbalance

Small businesses and nonprofits often face power imbalances in legal disputes. Larger corporations or government entities frequently leverage superior legal resources to dominate negotiations or litigation. In *Templeton Development Corp. v. Superior Court*, 144 Cal. App. 4th 1073 (Cal. Ct. App. 2006), the court noted that ADR mechanisms, if poorly structured, could disadvantage smaller entities in disputes against more powerful counterparts.<sup>20</sup> ADA lawsuits and other regulatory claims can disproportionately impact small businesses that lack dedicated legal teams.<sup>21</sup>

### Awareness Gap

A significant number of small entities are unaware of ADR options. Studies indicate that many small businesses do not seek legal counsel due to perceived costs and complexity, missing opportunities for alternative dispute resolution.<sup>22</sup>

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<sup>16</sup> *Sahara Enterprises v. Nigerian Ports Authority* [2019] 6 NWLR (Pt. 1662) 432

<sup>17</sup> National Council of Nonprofits, Common Problems in Government-Nonprofit Grants and Contracts, <https://www.councilofnonprofits.org/trends-and-policy-issues/state-policy-tax-law/common-problems-government-nonprofit-grants-and>

<sup>18</sup> *Ayanian v. Garland*, 64 F.4th 1074 (9th Cir. 2023)

<sup>19</sup> Institute for Legal Reform, "The U.S. Lawsuit System Costs America's Small Businesses \$160 Billion," January 4, 2024, <https://instituteforlegalreform.com/blog/the-us-lawsuit-system-costs-americas-small-businesses-160-billion/>

<sup>20</sup> *Templeton Development Corp. v. Superior Court*, 144 Cal. App. 4th 1073 (Cal. Ct. App. 2006)

<sup>21</sup> National Council of Nonprofits, "Common Problems in Government-Nonprofit Grants and Contracts," <https://www.councilofnonprofits.org/trends-and-policy-issues/state-policy-tax-law/common-problems-government-nonprofit-grants-and>

<sup>22</sup> LegalShield, "Legal Pitfalls Dent Small Business Owners' Bottom Line," May 19, 2025, <https://www.legalshield.com/press-releases/legal-pitfalls-dent-small-business-owners-bottom-line>

Even when ADR is available, small entities may lack procedural knowledge to engage effectively, reducing its potential benefits.

Addressing these challenges through the promotion of ADR via court-annexed mediation programmes, structured negotiation frameworks, and international best practices can provide small businesses and nonprofits with more accessible, cost-effective, and timely avenues for dispute resolution. Incorporating lessons from cases such as *Advanced Bodycare Solutions*, *Templeton Development*, and Nigerian precedents demonstrates the practical and legal efficacy of ADR in balancing power, reducing costs, and promoting operational sustainability.

### **Practical Benefits of Mediation/ADR**

Mediation and alternative dispute resolution (ADR) offer small businesses and Nonprofit Organisations significant practical advantages over traditional litigation. Economically, ADR reduces the financial burden of disputes. By avoiding court filing fees, lengthy attorney hours, and protracted discovery costs, organisations can resolve conflicts at a fraction of the cost of litigation.<sup>23</sup> ADR also provides predictable and manageable outcomes, which help small businesses and nonprofits allocate resources more efficiently and maintain operational stability.

Efficiency is another critical advantage. Mediation timelines are typically much shorter than court proceedings, allowing disputes to be resolved quickly and minimising disruptions to ongoing operations.<sup>24</sup> In my own experience assisting small business clients and nonprofits in the U.S., mediation workshops and registration consultations consistently led to faster resolution of contract and governance issues than traditional litigation would have allowed.

Confidentiality is a further benefit. ADR protects sensitive commercial or donor information and helps preserve reputations, which is crucial for organisations relying on community trust and stakeholder relationships.<sup>25</sup> Moreover, mediation supports relationship preservation, enabling parties to maintain ongoing partnerships rather than engendering adversarial dynamics.

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<sup>23</sup> Anna K Law, "The Benefits of Mediation for Small Businesses," 2025, <https://annaklaw.com/mediation-benefits/>

<sup>24</sup> Mediation First, "Benefits of Mediation," 2024, <https://www.mediationfirst.co.uk/blog/benefits-of-mediation.html>

<sup>25</sup> DMA Mediation, "4 Key Business Benefits of Workplace Mediation," 2025, <https://dmamediation.com/wp-content/uploads/2025/02/4-Key-Business-Benefits-of-Workplace-Mediation-.pdf>

Finally, ADR offers flexibility, permitting solutions that extend beyond rigid legal remedies, including customised payment plans, collaborative agreements, and operational restructuring. My volunteer experiences conducting ADR workshops for local nonprofits and startups revealed how tailored mediation solutions often exceed the outcomes achievable through court judgments.

Overall, mediation and ADR enhance accessibility to justice, reduce operational strain, and empower small entities to resolve disputes efficiently.

### **Case Studies and Applications**

Small businesses and nonprofits encounter disputes across diverse operational areas, including contractual disagreements, partnership conflicts, supplier issues, governance challenges, donor relations, and compliance matters. ADR programmes have demonstrated measurable effectiveness in these contexts, offering cost savings, faster resolution, and improvements in organisational governance.

For example, U.S.-based community mediation centres and court-annexed small claims mediation programmes provide structured avenues for resolving disputes outside formal litigation. Studies report that over 70% of mediated cases achieve partial or full resolution within weeks, compared to months or years in court.<sup>26</sup> Similarly, American Arbitration Association (AAA) mediation has shown that tailored dispute resolution processes reduce legal costs by up to 50% while preserving business relationships.<sup>27</sup>

In Nigeria, NGOs and small enterprises increasingly engage ADR to navigate governance conflicts and contractual disputes. Reports highlight that structured mediation interventions lead to more sustainable solutions, enabling organisations to focus on mission-critical operations rather than protracted litigation.<sup>28</sup>

Practical outcomes of ADR are multifaceted. Small businesses experience quicker contract enforcement and partnership stability, while nonprofits achieve enhanced donor confidence and streamlined internal governance. My work assisting startups with incorporation, contract review, and governance

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<sup>26</sup> Federal Law Enforcement Training Center, "Advantages of Mediation," 2025, <https://www.fletc.gov/sites/default/files/advantages-of-mediation.pdf>

<sup>27</sup>American Bar Association, "Roundtable on Mediation Practices for Small Entities," 2024, <https://shop.americanbar.org/PersonifyImages/ProductFiles/297648970/Roundtable%2010.pdf>

<sup>28</sup> F. C. Mediation, "Key Benefits of ADR for Small Enterprises in Nigeria," 2024, <https://cessummit.com/legal-challenges-and-opportunities-for-entrepreneurs/>

workshops consistently revealed that mediation fosters collaborative problem-solving, often resolving disputes without escalating to formal legal proceedings.

By combining empirical evidence with practitioner experience, these examples underscore ADR's role as a strategic, efficient, and accessible tool for small businesses and nonprofits navigating complex operational and legal challenges.

### **Barriers to Wider Adoption of Mediation/ADR**

Despite clear benefits, mediation and ADR face multiple barriers that restrict wider adoption among small businesses and nonprofits. Firstly, entrenched litigation-centric mindsets persist: in jurisdictions like Nigeria, parties often default to court adjudication rather than mediation, perceiving ADR as inferior.<sup>29</sup>

Secondly, insufficient mediator capacity in underserved regions poses a major obstacle. One study of Nigeria's Lagos Multi-Door Courthouse (LMDC) found that lack of a national ADR policy, under-resourcing, and unfamiliarity with the process limited mainstreaming of ADR in the courts.<sup>30</sup> Although the Lagos Multi-Door Courthouse Law (2007) provides the statutory foundation for Nigeria's first court-connected ADR centre, its implementation has been uneven across states.<sup>31</sup>

Thirdly, funding and cost issues hamper ADR uptake. For example, the United States Government Accountability Office (GAO) reported that the Internal Revenue Service's ADR programme usage fell by 65% between FY 2013-2022, attributing the decline partly to taxpayer perceptions of limited benefit and insufficient promotion.<sup>32</sup>

Finally, perceived enforceability and legitimacy concerns undermine confidence in mediated outcomes. Research in Nigeria notes that mediation is sometimes viewed as lacking binding enforceability compared to court judgments, particularly in the absence of a uniform statute.<sup>33</sup>

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<sup>29</sup> "The Growth of Mediation in Nigeria," mediate.com, 12 August 2021 <https://mediate.com/the-growth-of-mediation-in-nigeria/>

<sup>30</sup> A. Akeredolu, "Institutionalising Alternative Dispute Resolution in the Public Justice System in Nigeria: The LMDC Case Study," *Journal of Alternative Dispute Resolution* (2022) (available at <https://www.davidpublisher.com/Public/uploads/Contribute/550690603ae2b.pdf>)

<sup>31</sup> Lagos State Government, Lagos Multi-Door Courthouse Law (2007) at s.1-3.

<sup>32</sup> United States Government Accountability Office, IRS Could Better Manage Alternative Dispute Resolution Programs to Maximise Benefits, GAO-23-105552 (May 2023).

<sup>33</sup> "Alternative Dispute Resolution (ADR) in Nigeria: Issues and Challenges," ResearchGate (April 2024)

[https://www.researchgate.net/publication/379759340\\_ALTERNATIVE\\_DISPUTE\\_RESOLUTION\\_IN\\_NIGERIA\\_ISSUES\\_AND\\_CHALLENGES](https://www.researchgate.net/publication/379759340_ALTERNATIVE_DISPUTE_RESOLUTION_IN_NIGERIA_ISSUES_AND_CHALLENGES)

These barriers underscore the need for targeted policy interventions, legislation, funding, training, and awareness to advance ADR accessibility for smaller enterprises.

### **Recommendations and Policy Proposals**

To expand ADR adoption in the small business and nonprofit space, several strategic reforms are critical.

#### **Capacity building:**

Government agencies and professional ADR bodies should develop mediator training programmes specific to small business and nonprofit disputes, ensuring familiarity with governance issues, partnership conflicts, and limited-resource contexts.

#### **Awareness campaigns:**

Many small entities lack knowledge about ADR. A survey of legal professionals found that “lack of awareness” was the top barrier to ADR uptake.<sup>34</sup>

Educative initiatives (webinars, outreach, sector-specific briefings) should be prioritised.

#### **Subsidised programmes:**

To overcome cost barriers, mediation resources should be subsidised for nonprofits and small enterprises. Pilot demonstration programmes (such as LMDC’s referral model) suggest that subsidised ADR increases participation. Integration into legal frameworks: Mandatory or early-referral mediation for certain small claims or nonprofit governance disputes would reduce litigation default. The US business ADR benchmarking study noted that although awareness is rising, systematic internal ADR systems remain rare.<sup>35</sup> In Nigeria, the Arbitration and Mediation Act (2023) establishes a unified legal framework for ADR, enhancing enforceability and promoting consistency across jurisdictions.<sup>36</sup>

#### **Leveraging technology:**

Virtual mediation platforms can expand access, especially for underserved geographic areas and smaller organisations operating remotely. Research on

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<sup>34</sup> “Lack of awareness an ADR barrier – survey,” *Law Society Gazette*, 17 September 2024 <https://www.lawsociety.ie/gazette/top-stories/2024/september/lack-of-awareness-an-adr-barrier--survey/>

<sup>35</sup> The Use of ADR in Maryland Business: A Benchmarking Study (Maryland Mediation & Conflict Resolution Office, 2004)

<https://www.courts.state.md.us/sites/default/files/import/macro/pdfs/macro-busstudy.pdf>

<sup>36</sup> Federal Republic of Nigeria, Arbitration and Mediation Act (2023) at s.4, s.68.

informal economy ADR finds e-ADR an emerging facilitator, though adoption remains inhibited by digital divide issues.<sup>37</sup>

Taken together, these reforms can make mediation more inclusive, cost-efficient, and tailored to the specific needs of small businesses and Nonprofit Organisations, thereby closing the access-to-justice gap.

## **Conclusion**

Mediation and ADR are indispensable tools for advancing access to justice for small businesses and nonprofits. By addressing financial, temporal, and relational barriers, ADR promotes cost-effective, timely, and sustainable dispute resolution while preserving critical relationships. Strategic adoption, through capacity building, awareness campaigns, subsidised programmes, legal integration, and technology, empowers organisations to focus on growth and mission delivery. Ultimately, robust mediation frameworks strengthen economic resilience, enhance social cohesion, and align with national interest priorities, positioning ADR as a cornerstone of equitable justice in the 21st-century U.S. and globally.

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<sup>37</sup> A. B. Khan, "The Role of ADR in Transforming Dispute Resolution Mechanisms for Informal Economies," *Law Research Journal*, Vol.3 No.1 (2025) <https://lawresearchreview.com/index.php/Journal/article/view/80>