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## Communication as a Tool for Effective Dispute Resolution and Governance in Nigeria

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### Abstract

Dispute is inevitable in groups and organizations, and it presents both a challenge and a true opportunity for every leader. In the well-known book, *Getting to Yes*, Fisher and Ury (1981) contend that handling dispute is a daily occurrence for all of us. People differ, and because they do, they need to negotiate with others about their differences (pp. xi–xii). *Getting to Yes* asserts that mutual agreement is possible in any dispute situation if people are willing to negotiate in authentic ways. When we think of dispute in simple terms, we think of a struggle between people, groups, organizations, cultures, or nations. Dispute involves opposing forces, pulling in different directions. Many people believe that dispute is disruptive, causes stress, and should be avoided. Communication plays a central role in handling Dispute. Dispute is an interactive process between two or more parties that requires effective human interaction. By communicating effectively, leaders and followers can successfully resolve Dispute to bring positive results.

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### 1 Dispute

Dispute has been studied from multiple perspectives, including intrapersonal, interpersonal, and societal. Intrapersonal dispute refers to the discord that occurs within an individual. It is often studied by psychologists and personality theorists who are interested in the dynamics of personality and factors that predispose people to inner disputes. Interpersonal dispute refers to the disputes that arise between individuals. This is the type of dispute we focus on when we discuss Dispute in organizations. Societal Dispute refers to clashes between societies and nations. (Wilmot and Hocker, 2011, p. 11)

Dispute is a struggle; it is the result of opposing forces coming together. For example, there is dispute when a leader and a senior-level employee oppose each other on whether or not all employees must work on weekends. Similarly, dispute occurs when a school principal and a parent disagree on the type of sex education program that should be adopted in a school system. In short, dispute involves a clash between opposing parties.

There needs to be an element of interdependence between parties for dispute to take place. If leaders could function entirely independently of each other and their subordinates, there would be no reason for dispute. Everyone could do their own work, and there would be no areas of contention. However, leaders do not work in isolation. Leaders need followers, and followers need leaders. This interdependence sets up an environment in which dispute is more likely.

When two parties are interdependent, they are forced to deal with questions such as “How much influence do I want in this relationship?” and “How much influence am I willing to accept from the other party?” Because of our interdependence, questions such as these cannot be avoided. In fact, Wilmot and Hocker (2011) contend that these questions permeate most disputes.

Dispute always contains an affective element, the “felt” part of the definition. Dispute is an emotional process that involves the arousal of feelings in both parties of the dispute (Brown & Keller, 1979). When our beliefs or values on a highly charged issue (e.g., the right to strike) are challenged, we become upset and feel it is important to defend our position. When our feelings clash with others’ feelings, we are in dispute.

The primary emotions connected with dispute are not always anger or hostility. Rather, an array of emotions can accompany dispute. Hocker and Wilmot (1995) found that many people report feeling lonely, sad, or disconnected during dispute. For some, interpersonal dispute creates feelings of abandonment that their human bond to others has been broken. Feelings such as these often produce the discomfort that surrounds dispute.

Dispute involves differences between individuals that are perceived to be incompatible. Dispute can result from differences in individuals’ beliefs, values, and goals, or from differences in individuals’ desires for control, status, and connectedness. The opportunities for dispute are endless because each of us is unique with particular sets of interests and ideas. These differences are a constant breeding ground for disputes.

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## 2 Communication

The Longman Dictionary of Contemporary English (1995) defines communication as the process of obtaining information or expressing thought and feelings. Going by this definition, it is obvious that human beings are naturally communicators. Shannon and Weaver (1977) also define communication as “all the procedures by which one mind may affect another”. This implies that communication can take place not only in oral and written media but also in music, pictorial arts, theatre and, of course, all human behavior. The definitions above clearly indicate that communication is a process that involves the transmission of message from a sender to a receiver and which has the goal of eliciting a reaction or reactions (feedback). What happens, therefore, can be explained in a way of stimulus response process.

What communication is all about can be summarized as follows:

- (i) It is seen as a process.
- (ii) It takes place between two or more people.
- (iii) There has to be a message, which is sent from one person to another.
- (iv) That message is sent through a medium.
- (v) The received message will generate or provoke appropriate behaviour or reaction.
- (vi) Communication is the bedrock of any social system.

“Most of the non-violent methods of dispute management, according to Shadrack (2004), “such as collaboration, negotiation and dialogue as well as third party interventions like mediation, conciliation, arbitration and adjudication, are largely dependent on effective communication.” In a situation whereby the parties in dispute can talk together on issues tearing them apart with the genuine purpose of finding a solution to the disputing situations, it is envisaged that the resolution of such dispute is at sight. The same process can also prevent crises or disputes. Therefore, communication is a powerful and effective non-adversarial and cheap means of preventing and resolving disputes if only the concerned parties realize it as an ingredient of peace.

### **3 Skills in communication:**

#### **Communication verbally and non-verbally**

Negotiations can only take place when communication is made to another person that a dispute has been identified and the communicator wishes to settle it. Effective communicator is the one that can facilitate dialogue while communicating. The personality indexes and emotions play a very important role in verbal communication while other characteristics are associated with non-verbal communication. For instance, the communicator's use of gestures will ensure active participation by complementing speech with signs, usually hands and body movements, facial expressions and occasional unique vocal sounds, constant eye contact which refers to "eye magic" as a way of sustaining and connecting interest and attention of the parties involved in disputes. It is always very important to note that non-verbal codes are somehow culture-bound or based. This implies that mediators should be well-versed in the cultural values and practices of the parties in disputes as regards the use of non-verbal communication.

#### **Active listening**

A good mediator displays effective listening skills. He inculcates the habit of wanting to listen to people more than engaging in talking nineteen to dozen i.e. talking too much. When a mediator becomes an active listener, he or she will be able to identify the fear, suspicion, lies, truths, interests, understanding, doubts, desires, feelings, distrust, misinterpretations, misinformation as well as other pretensions of the parties involved in the dispute situations. In this way, he or she can ask questions to clarify issues with the speaker and ensures that the other party is not in doubt or has heard the point. Mediators normally show their understanding on the matters of the two parties' perspective through comments and nonverbal reactions. In fact, mediator shows good communication skills such as listening and being able to paraphrase and summaries what they have heard without distorting the main facts or messages.

#### **Industrial dispute and resolution**

Industrial disputes are defined by Kornhauser and Rose (1954) as "the total range of behaviour and attitude that express opposition and divergent orientations between industrial owners and managers on the one hand and the working people and their organization on the other." (Arije, 2000) In most places, strike, cessation of work, and refusal to continue to work including "go slow" and "lock out" are some types of industrial dispute mostly common. The absence of these forms of industrial dispute, however, does not mean that all is well or that it is indicative of a stable or peaceful industrial relations environment due to the fact that budding cleavages may be developing in the secret and if allowed to manifest, may be disruptive and destructive to any organization. In dispute situations, collective bargaining is the most scientific and accepted approach in handling industrial relationship. This term 'collective bargaining' refers to all negotiations which take place between an employer, a group of employers or one or more employers' organization, on the one hand, and one or more workers' organizations, on the other, concerning issues such as determining the terms and conditions of employment. The outcome of such negotiations which invariably helps to settle disputes between the parties is referred to as 'collective agreement' which must be signed and implemented by the parties involved.

#### **information in collective bargaining system**

Exchanging and sharing of information during dispute situations must happen before and during negotiations between the disputing parties. Access to relevant information to the case or dispute is sine qua non. The parties involved in disputes must be tactful and quick-witted in grasping and manipulating, utilizing effective and useful information and facts. Each party should have the correct facts and figures about the case before venturing to engage in any negotiation or dialogue. The shrewd utilization of information will determine and enhance the bargaining power and the extent to which each party achieves its goal or interest. Any party which is not sufficiently equipped with relevant and accurate

information is likely to be flawed and embarrassed by the stronger party with accurate facts and figures during collective bargaining. According to Arije (2000), the two parties should be:

- (i) Well-versed and knowledgeable in the establishment's collective agreement and the existing grievance procedure.
- (ii) Knowledgeable in the establishment's rules and regulations.
- (iii) Current with relevant news or actions or cases in other contemporary organizations and the society.

During the dispute process or dispute progression, communication is very essential. The relevant information must be communicated timely and at appropriate stages and places during the collective bargaining. Most of the methods adopted in non-violent management of disputes such as collaboration, negotiation and dialogue as well as third party interventions such as mediation, conciliation, arbitration, and adjudication mostly rely on the effective application of communication and communication strategies. The significance of information and communication is further recognised in the activities of the third parties in preventing and resolving disputes. The third party interveners normally facilitate interactions, discussions and dialogues between parties in dispute situations with the sole aim of identifying, understanding and resolving the disputes. Shedrack (2004) opines that: "Communication is a non-adversarial, cheap method of preventing and removing dispute situations, quite within the grip of the parties. Once communication is lost, parties risk getting into deeper crisis that cannot be easily resolved.

Thus, communication is invaluable for disputes prevention in the first instance, and then for dispute resolution". Some of the non-violent methods of dispute management connected with the use of language and communication such as negotiation and dialogue as well as third party interventions like mediation, conciliation, arbitration and adjudication.

#### **Negotiation**

Negotiation has to do with an organization or form of carrying out a plan through some norms that are socially acceptable in achieving a predetermined goal or achieving a significant or high degree of purposeful steps taken or actions through dialogue. Negotiation is a back and forth communication designed to reach an agreement when you and the other side have some interests that are shared and others that are opposed. As Akinawonu (2006) has argued, dialogue must be constructively employed in disputes situations in order to impact positively on the peaceful resolution of disputes. He further buttresses this claim by saying that: "Since the rule of law ensures peace rather than violence in the country, and knowing that dialogue is a necessary path to peace, it inevitably means that dialogue is a fundamental factor in ensuring the rule of law. In cases where there is no very radical dispute of essential principles, ill-feeling may commonly be alleviated by face-to-face discussion." Many people believe that lack of opportunity for explanation is responsible for misunderstandings and suspicions between parties in disputes. Effective communication, therefore, is central in negotiation which is a direct process of dialogue and discussion taking place between at least two parties who are faced with a dispute.

#### **Mediation**

Mediation is a process of managing negotiation by a third party, realizing that the two parties involved in a dispute have agreed to resolve their problem. According to Godongs (2006), "Mediation is a special form of negotiation in which a neutral third party has a role. Such a role is to help the parties in dispute achieve a naturally acceptable settlement". To eradicate a kind of conceptual problem of interpretation, we shall regard conciliation, good offices and fact-finding approaches of non-adversarial method of management and resolution of disputes as part of mediation. Conciliation involves the use of a trusted third party giving an informal communication between the two parties in a dispute. Also good offices are employed in mediation process to help identify problems and to lessen the tension being generated by such problems by direct negotiation. Intermediaries are engaged as a go-between. Fact-finding is the goal of these intermediaries whereby the dispute situation are

assessed and reports are given to the concerned parties in order to proffer solutions to the dispute issues. Beer and Stief (1997) define mediation as “any process for resolving dispute in which another person helps the parties negotiate a settlement”.

### **Arbitration**

Arbitration is one of the methods of non-violent approaches to dispute resolution. The use of a third party in settling disputes through negotiating, dialogue, cooperation, communication, information flow and management is becoming more apparent in our societies. The arbiter hears the evidences from both parties involved in disputes and may listen to witnesses, interview leaders or representatives of the parties, visit the areas in disputes, assess or evaluate claims, documents, lands and properties in dispute. After collecting vital information and facilitating discussion, negotiation, dialogue, listening and hearing meetings, which are aimed at helping to make a critical decision about who is right or wrong, the arbiter then takes a bold step to ensure fair play and justice in order to restore peace. The decision taken thereafter is called an award which is expected to be binding on the parties. The parties in disputes however, have to agree and accept the arbiter who sits over their case. Arbitrators are usually people of respected characters, authorities, and peace in the society.

### **Adjudication**

Sometimes, parties involved in disputes may decide to resolve their differences in law courts and use litigation mechanisms. The aggrieved party who chooses this nonviolent method is ready to take the verdict or judgment of the presiding judge of competent jurisdiction either good or bad or either in its favour or against it. The judgment is binding and will be legally enforced through the state apparatus for resolving disputes. This means of resolving disputes is usually marked with winner and loser, bitterness and joy as the case may be. Legal counsels are engaged in adjudication processes. Counsel to the parties involved in disputes will present their cases through addresses, giving information, arguments, claims, evidences, cross-examinations, proofs, witnesses with the aim of winning after hearing and judgment delivered. Communication, information and logical presentation of facts, proofs, evidences and application of the legal procedures are some of the features of adjudication.

#### **Role of Communication in Dispute Management**

- Dispute interaction
- Evolves in stages
- Acquires a momentum of its own
- Becomes cyclical or patterned
- Can escalate or de-escalate
- Is linked to relationships and past communication patterns

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## **4 Communication and Dispute Resolution**

When dispute exists in leadership situations, it is recognized and expressed through communication. Communication is the means that people use to express their disagreements or differences. Communication also provides the avenue by which dispute can be successfully resolved, or worsened, producing negative results.

When human communication takes place, it occurs on two levels. One level can be characterized as the content dimension and the other as the relationship dimension (Watzlawick, Beavin, & Jackson, 1967). The content dimension of communication involves the objective,

observable aspects such as money, weather, and land; the relationship dimension refers to the participants' perceptions of their connection to one another. In human communication, these two dimensions are always bound together.

To illustrate the two dimensions, consider the following hypothetical statement made by a supervisor to a subordinate: "Please stop texting at work." The content dimension of this message refers to rules and what the supervisor wants the subordinate to do. The relationship dimension of this message refers to how the supervisor and the subordinate are affiliated to the supervisor's authority in relation to the subordinate, the supervisor's attitude toward the subordinate, the subordinate's attitude toward the supervisor, and their feelings about one another. It is the relationship dimension that implicitly suggests how the content dimension should be interpreted, since the content alone can be interpreted in different ways. The exact meaning of the message to the supervisor and subordinate is interpreted as a result of their interaction. If a positive relationship exists between the supervisor and the subordinate, then the content "please stop texting at work" will probably be interpreted by the subordinate as a friendly request by a supervisor who is honestly concerned about the subordinate's job performance. However, if the relationship between the supervisor and the subordinate is superficial or strained, the subordinate may interpret the content of the message as a rigid directive, delivered by a supervisor who enjoys giving orders. This example illustrates how the meanings of messages are not in words alone but in individuals' interpretations of the messages in light of their relationships.

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## 5 Conclusion

Communication could be verbal, non-verbal or written. Therefore, this study considers communication as one of the non-adversarial methods in Western Alternative Dispute Resolution. In view of this, it should be given more attention in order to get to the root causes, information, understanding and management or resolution of the continued eruptions of disputes in the 21st century. Although, some people may argue that it is neither the language nor the communication forms that actually resolve disputes but the willingness of the two parties involved in a dispute to restore peace and the level of agreement reached. Such critics argue further that sanctions and armed forces or war could do the magic of restoring peace. The point is that non-adversarial methods of dispute resolution are apparently favoured as the most acceptable scientific approach to restoring peace.

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