

‘Poisonous caterpillar fire should not burn a person twice’: Cultural orientations in Nigerian alternative dispute resolution encounters

Discourse Studies

2025, Vol. 27(1) 3–25

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DOI: 10.1177/14614456241254461

journals.sagepub.com/home/dis**Simeon Ajiboye**

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Abstract

Extant studies on alternative dispute resolution (ARD) have focused on the language use, benefits, importance, linguistic parameters and contextual features of ADR but have yet to pay attention to participants' strict orientation to culture despite the positive implications of these orientations for sustainable harmony in the Nigerian society. This study, therefore, examines participants' orientation to cultural values and their contribution(s) to the dispute resolution process. The study adopted Levinson's notion of activity types and functionalism theory of culture. Data comprises purposively selected taped hearing sessions and documented cases between 2010 and 2017 in three southwestern Nigerian universities: the University of Ibadan, Adekunle and Olabisi Onabanjo University (OOU), where alternative dispute resolution is practised. The findings reveal that Nigerian alternative resolution encounters are punctuated with conservative-traditional, liberal and noncompromising cultural orientations. Conservative-traditional cultural orientation is expressed through male, sexual and children ownership supremacy cultural scripts; liberal cultural orientation is articulated through fatherhood, marked female support position and patience cultural scripts, while non-compromising cultural orientation is voiced through (dis)respect, (dis)obedience, (im)patience, non-submission and caution cultural scripts. The study concludes that culture plays a vital role in restoring societal peace.

Keywords

Adjudicative encounter, conservative-traditional, cultural orientation, liberal cultural value, male supremacy

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Introduction

Disputes are natural occurrences in human interactions (Gold, 2005; Hill, 2021; Oddiri, 2004; Tan, 2018) and could occur at the individual or organizational level. It is believed that differences of opinion and perception in many settings, such as the home, institution, group and organization, are probable factors of disputes. This assertion is bolstered by Oddiri (2004) and Adebisi (2014) as they unequivocally state that incompatible human goals and ends are factors responsible for any form of dispute at whatever level. The certainty of dispute in human interaction makes society devise means of resolution. Consequently, two notable dispute resolution methods, litigation (conventional court system) and alternative dispute resolution (ADR), have surfaced over time; the most prominent one is litigation, which, in Adebisi's (2014) words, is 'the traditional or formal method'. It is worthy of note that the emergence of alternative dispute resolution is a result of challenges such as undue technicality, high-cost implication, inflexibility and prolonged duration of operation, amongst others that fraught litigation (Adebisi, 2014; Oddiri, 2004).

The conventional court system is rigidly legal-constrained with strict adherence to the principles of legality, while the ADR, which is the focus of this study, dis-orientates the principles of the rule of law. ADR seems acceptable to people in large measure because of its negotiability and amicable or harmonious resolution of disputes in a quick and costless manner without infringing on the right and privacy of the parties involved. ADR is defined as a set of collective descriptions of methods of resolving disputes other than the normal trial process. The use of ADR as a means of dispute resolution today has been discovered to be preferred to litigation in different spheres of life such as marriage, commercial-contractual disputes in employment and labour, divorce issues, as well as consumer protection and liability cases (Ajiboye, 2018; Disu, 2011). Based on its negotiability and reliability, its usage by the aggrieved parties is encouraged by courts and legislation before resulting in litigation (Disu, 2011). In this light, Rosenberg and Folberg (1994) state that ADR is becoming not merely a supplement to adjudication but a replacement for it.

Historically, ADR is rooted in people's culture and belief systems through which disputes are settled, peace is maintained and traditional values are upheld (Ajiboye, 2018). This explains the importance of culture in dispute resolution and the negotiation and administration of justice. It should, however, be noted that every activity, which includes the presentation of disputes, resolution of disputes and administration/negotiation of justice within the ADR setting, is conducted through the instrumentality of language. This does not only explain the importance and efficacy of language in human interactions as a vehicle for expressing feelings, opinions, ideas and perceptions, especially in resolution processes, but also reveals the relationship between language and culture. This importance is amplified by Yule's (1996) transactional and interpersonal function of language. In ADR, therefore, participants' cultural orientation, which is displayed through language, plays a prominent role in the resolution process. In this light, this work examines cultural orientations in Nigerian alternative dispute resolution encounters.

Studies on alternative dispute resolution have examined language use and benefits of ADR (Chernyshenko and Alimuradov, 2013; Nwanko et al., 2012); others (Nwazi, 2017; Rosenberg and Folberg, 1994; Shavell, 1995) focussed on the importance of ADR in

dispute resolution mainly from the law discipline, while studies from linguistics perspectives (Candlin and Maley, 1997; Drabarz et al., 2017; Putnam, 2005) focussed on the linguistic parameters and contextual features in alternative dispute resolution interactions with a neglect on participants' orientation to culture and its contribution in dispute resolution process. There is no gainsaying that examining the benefits or choice of ADR over litigation is essential; however, it is not adequate to focus on benefits without considering different participants' cultural orientation(s) in the dispute resolution. This study, therefore, examines the different categories of cultural orientations and micro-cultural values that participants orient to in the resolution process.

The paper is structured as follows: section 2 presents the development of alternative dispute resolution in Nigeria, section 3 centres on context and ADR, section 4 focusses on theoretical perspective, section 5 discusses the methodology, section 6 presents an analysis and findings of different cultural orientations of alternative dispute resolution encounters, while Section 6 presents the conclusion of the study.

Development of ADR in Nigeria

ADR is not new in Nigerian society; it existed among ethnic groups before the colonial era. The pre-colonial era of the Yoruba people had a system where elders between rival parties adjudicated disputes. The mediators' authority in this regard was hinged on the reputation and respect accorded them by the community. At the same time, the disputants' cooperation was sought by what could be termed a general belief that a recalcitrant party could be subjected to ostracism or scorn within the community; through this, disputes were prevented from festering, peace was maintained and traditional values were preserved (Adebiyi, 2014)

However, the first ADR statute in Nigeria was the Arbitration Ordinance of 1914, which later became Chapter 13 of the Revised Law of Nigeria in 1958 (Adebiyi, 2014). This resulted from colonization, and its adjusted bodies of law were foisted on the country (Adebiyi, 2014). It was established for the Western, Eastern and Northern regions and the then Federal Capital Territory (FCT), Lagos and piloted solely for domestic use. In 1988, the Arbitration and Conciliation Act was promulgated, and in Adebiyi's (2014:8) words, it 'served as the primary legislation governing a spectrum of ADR' in Nigeria today. It is an offshoot of the United Nations Commission for Trade Law (UNCITRAL) model law, the UNCITRAL Arbitration Rules and the New York Convention (Adebiyi, 2014:8). The act covers domestic and international arbitration.

In Nigeria today, ADR is encouraged as it hastens the delivery of justice through legislation, court rules and judicial decisions. ADR in Nigeria witnessed a turnaround on June 11, 2001, when the Lagos State Judiciary, in conjunction with the Negotiation and Conflict Management Group (NCMG), established the Lagos Multi-Door Court House (LMDC) as the first court-connected ADR centre in Africa, (Aina, 2008). The centre resolves disputes through neutral evaluation, mediation and arbitration, and it has been adopted and employed in 11 federation states. Currently, ADR is more expansive than just the centres mentioned above. Nigerian universities have also introduced it in one way or another in various law faculties under what is called law clinic, which is the focus of this study.

ADR is broadly categorized into negotiation, mediation, conciliation, arbitration and collaborative law. Negotiation is a process that involves discussion among various parties to develop and reach an agreement on a matter of mutual concern. It focusses on discussing or dealing with a matter, intending to reconcile the differences and establish areas of agreement, settlement or compromise that mutually benefit the parties (Mitchard, 1997). Mediation is a non-binding ADR approach or process where parties involved in a dispute meet jointly and separately with a trained neutral or independent person called a mediator to explore and decide how the dispute will be resolved. Goodman (2010), in his definition, sees mediation as ‘a voluntary, non-binding and private dispute resolution process in which a trained neutral person helps the parties to reach a compromise or negotiated settlement’. At this juncture, it is essential to state that the current study focusses on the mediation form of ADR. Conciliation is a method of settling disputes by consensus rather than by adjudication. It is a situation where the conciliator or the neutral person brings the aggrieved parties to a voluntary settlement of their dispute(s). As Odidiri (2004) points out, both mediation and conciliation are used interchangeably in Nigeria. Arbitration is a binding form of ADR used to resolve disputes resulting from commercial or contractual agreements without the procedural principles of litigation and court formalities. It is defined by Halsby Law of England as ‘the references of a dispute or differences between not less than two parties for determination, after judicially hearing both sides by a person or persons other than in the court of competent jurisdiction’. The aggrieved parties must accept whatever the arbitrator decides after agreeing to arbitrate. Collaborative law is a form of ADR where a collaborative attorney represents both parties, and both parties agree not to litigate.

Context and ADR

Since meaning construction, generation and production are practically impossible without context, and alternative dispute resolution is all about settlement and meaningful resolution, context is, therefore, an integral part of ADR. Context is indispensable to meaning explication (Brown and Yule, 1983; Mey, 2001; Odebunmi, 2006; Schiffirin, 1994; Thomas, 1995). It takes a central seat in determining the meaning of utterances (Odebunmi, 2016:250). This means that context is not only the vehicle through which meaning is driven but also a nucleus of meaning. Therefore, for a complete determination of meaning, the centrality of context cannot be compromised in communication. Context is also considered a constraint for talk; it determines what participants can and cannot say (Mey, 2001). This means the participants’ location of conversation and interaction constrains what can be said. In other words, as Odebunmi (2006) points out, talk has a way of pointing out the setting where a speech or utterance has been made. For example, an utterance such as ‘This is not a law court where judgment is pronounced, but a place where disputes are resolved amicably’ is predictably made by a mediator in an adjudicative (ADR) setting. It is worth noting that setting, which some scholars see as a defining frame for context, is not the only factor determining meaning, especially in pragmatics. Hence, context is perceived as the dynamic, talk-connected condition that evokes co-experiential and current activity frames for determining the senses of

utterances (Odebunmi, 2016). This means participants' experiences are helpful factors in determining the senses of utterances. Also, assumption, one prominent context feature, is usually brought into conversation in any interactional engagement. It is in this light that Ochs (1979:3) explains context as

the social and physiological world in which the user operates at any given time [and], minimally language users' beliefs and assumptions about temporal, spatial and social settings; prior, ongoing and future actions and the state of knowledge and attentiveness of those participating in the social interaction at hand.

This means interactants import knowledge of their individual and shared experiences into conversations, which are helpful tools for meaning construction. Equally relevant to this study is Fetzer's (2007:4) perspective of context as 'a dynamic construct which is interactionally organized in and through the process of communication' and as 'common ground or background information' (Fetzer, 2007:5). Participants in ADR usually harness all these factors to negotiate meaning in the process of resolution. Therefore, context is required to understand the goings-on in adjudicative encounters, from the dispute presentation to the resolution and negotiation process.

Out of the various types of context, the one relevant to the ADR setting is socio-cultural context, and this is because ADR is considered to be rooted in the culture of the people. Socio-cultural context is the constraints imposed on meaning and understanding events through social, cultural and communicative encounters. It consists of participants, their talk, physical locations and verbal or non-verbal actions, intention and goal, knowledge of the language and assumptions or presuppositions. This idea is foregrounded in Fetzer's (2007: 14) words, where she elucidates that socio-cultural context is synonymous:

'with extra-linguistic context which comprises the participants of a communicative exchange, their physical and psychological dispositions and the specific knowledge or assumptions about the persons involved, the knowledge of the language and the conventions regarding appropriate use of language, the knowledge of activity-types including communicative intentions and goals, and general background knowledge'

Theoretical perspectives explication

The notion of activity types (AT) is built on Wittgenstein's language game, which suggests that 'understanding a language, and by implication having a grasp of the meaning of utterances, involves knowing the nature of the activity in which the utterances play a role' (Levinson, 1979:365). The notion of activity type is called speech events by sociologists, while it is called episodes by anthropologists (Gunperz, 1972; Hymes, 1972; Levinson, 1992). AT is perceived as a collection of a particular conversational contribution, including speech acts that stand in specific, pragmatic relationship to each other and have become a relatively conversationalized whole (Culpeper and Haugh, 2014). Levinson explains the notion of activity type as follows:

Any culturally recognized activity, whether or not that activity is co-extensive with a period of speech or whether any talk takes place at all. In particular, I take the notion of an activity type to

refer to a fuzzy category whose focal members are goal-defined, socially constituted, bounded, events with constraints on participants, setting, and so on, but above all, on the kinds of allowable contribution. Paradigm examples would be teaching, a job interview, a jural interrogation, a football game, a task in a workshop, a dinner party, and so on (Levinson, 1979, 1992).

It is apparent from the above definition that activities are 'goal-defined and culturally recognized' such that they place constraints on participants' 'allowable contributions'. In other words, the above definition emphasizes the participants' activity performed and the physical location of the talk as constraints on participants' use of language, which places high restrictions on the contributions that could be made by the parties in interaction. These constraints serve as the pragmatic context where participants negotiate meanings and intentions instead of strict dependence on the physical setting of the interaction, a standard position of the traditional concept of context (cf. Ajiboye, 2013; Gumperz, 1982; Levinson, 1979, 1992; Mey, 2001; Odebunmi, 2008; Odebunmi, 2010; Thomas, 1995).

Levinson (1992) identifies talk-constituted or occurring activities such as a telephone conversation or a lecture, and talk-non-occurring or incidentally occurring activities such as 'a game of football. It is noteworthy that adjudicative discourse, which is the focus of this study, is an example of a talk-occurring activity. Hence, this current study focusses on talk-occurring activities. Levinson's (1992) AT centres on the fact that the types of activity play a significant role in language usage, and this is achieved by the constraints on each activity and on the kind of inferences that are derived from 'what is said' (Levinson, 1992:97).

It is important to note that an activity type has both an interactional and cognitive side. These two sides are harnessed to tease out the participants' orientations in Nigerian alternative dispute resolution interaction. The interactional side deals with what participants do to constitute the activity, while the cognitive side deals with the corresponding knowledge, which Levinson named 'inferential schemata'. These schemata, in Levinson's words, 'are tied to the structural properties of the type of the activity'. In other words, the constraints placed on the contributions participants can make to an activity come with certain expectations, which correspond to 'the functions that any utterances at a certain point in the proceedings can be fulfilling' (1992: 79). This is because there is always a set of inferential schemata attached to an activity. These schemata 'help to determine how what one says will be taken, that is, what kinds of inferences will be made from what is said' (1992: 97). Ultimately, each discourse participant plays a communicative role that suits the interactional context and that is sensitive to the dynamism of the activities being carried out.

Levinson (1992) identifies four main approaches to studying inferences in discourse:

- a. Grice's (1975) generated 'implicature inferencing'. This is the type of inference through violation or flouting of Grice's maxims. (Cooperative principles).
- b. Indirect illocutionary force generated inferencing
- c. Artificial intelligence generated inferencing. It centres on the type of inference derived from the world's knowledge. In other words, it is a frame or block of knowledge inferencing.
- d. Inferences generated from conversational structure.

Also important in this study is the interactional features of AT identified by Thomas (1995):

- The goals of the participants
- Allowable contributions
- The degree to which Grician maxims are adhered to or are suspended.
- The degree to which interpersonal maxims are adhered to or are suspended.
- Turn-taking and topic control
- The manipulation or pragmatic parameters (i.e. power, social distance).

This study seeks to examine this notion of meaning generation as it explains the cultural orientations in adjudicative interaction.

The notion of activity types is combined with the functionalism theory of culture. Functionalism sees society as a connected and coordinated system wherein all parts are perceived or work together. In this manner, society cannot function without culture. In other words, societal existence depends on culture. Cultural values or norms, therefore, do not only function as a support system upon which society operates but also provide choice-making guides for people. They are a set of behaviours that guide how people communicate and interact and can influence individuals' attitudes and behaviours within particular social situations. Hence, culture exists to meet the social and personal needs of members of a society. Within the spectrum of functionalism, culture is perceived as a functioning and integrated whole that people acquired as members of that society.

Malinowski (1944, 1960), a proponent of functionalism, sees culture as a balanced system of many parts. In his words, 'culture as a functioning whole and developed the idea of studying the "use" or "function" of the beliefs, practices, customs and institutions which together made the "whole" of a culture' (Malinowski, 1944:1). This assertion further buttresses the societal operation on the vehicle of cultural values. Foregrounding Malinowski's perspectives, Durkheim (1960) expounds that culture is a force or social glue that connects people, which in turn helps to create social solidarity. He, therefore, sees social institutions playing a pivotal role(s) in transmitting norms and values into society, and societal members are socialized into these norms and values, which in turn form part of their identity. Therefore, value(s) serve as the basis on which culture is studied.

It is essential to establish, at this juncture, that in daily interaction, members of the society draw or orient to these cultural norms and values to not only guide their conduct but also meet their needs. Hence, these values or cultural elements are harnessed explicitly in the current study to index different participants' cultural orientations in Nigerian alternative dispute resolution encounters.

Methodology

A total of 21 conversational interactions in three southwestern Nigerian Universities were audio-taped between 2015 and 2017, and 30 documented cases between 2010 and

2017. The universities were purposely selected because they are the only ones providing dispute resolution services in southwestern Nigeria. All conversations between the parties were taped, irrespective of the language used (English, Yoruba or Pidgin English). The conversations were transcribed using Gail Jefferson’s (2004) CA transcription notation. Central for the analysis was a combination of Levinson’s notion of activity types and the functionalism theory of culture. These theories were selected because they were concerned with the discursive construction of social and cultural realities, sequence and situatedness of discourse and participants’ negotiated language use. The paper adopted a top-down analytical method to unpack different cultural orientations in alternative dispute resolution encounters. This was done by categorizing, defining, characterizing and exemplifying the participants’ cultural orientations in tandem with the study’s objectives and applying aspects of the theoretical insights adopted for the research as demonstrated in the analytical model.

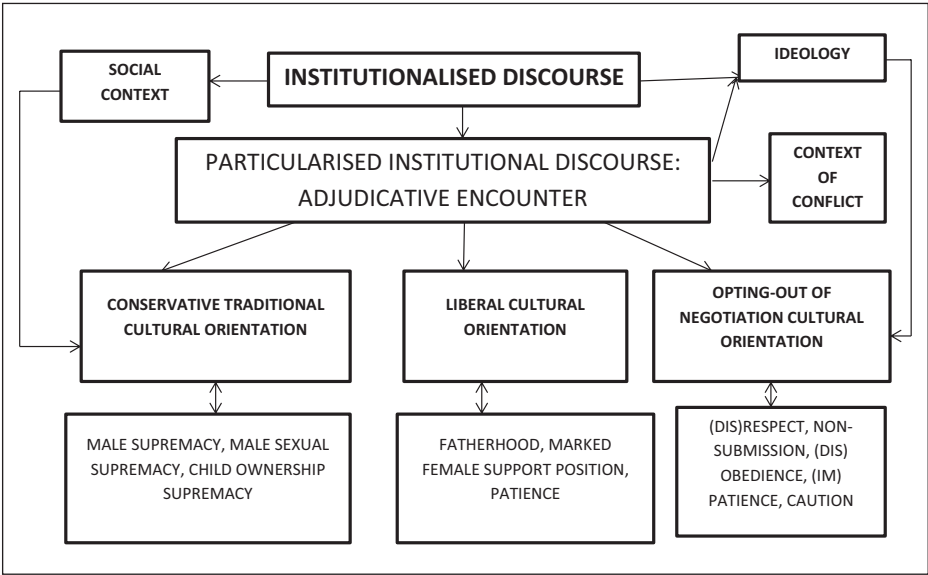


Figure 1. Analytical model for the study.

The above Figure 1 presents the categories of cultural orientations that participants/ interactants orient to in dispute resolution encounters. This model shows that a particularized institutional discourse, like an adjudicative encounter, stems from institutionalized discourse. Institutional discourse is a product of social context, while interactions at the adjudicative encounter are the product of the context of conflict. The model reveals three ways through which participants in the ADR encounters orient to culture in ADR encounters in typical African society, especially Yoruba culture and different ways they

harness cultural values in making their choices and asserting themselves. They are conservative-traditional cultural orientation, liberal cultural orientation and opting out of negotiation cultural orientation. These cultural orientations are teased out through participants' negotiation and use of language, their understanding of the goings-on in the ADR encounters and their knowledge and alignment with cultural beliefs and values.

Analysis and findings

As explained in Figure 1, three cultural orientations, namely, conservative-traditional cultural orientation, liberal cultural orientation and opting out of negotiation, cultural orientation characterized Nigerian ADR encounters. These cultural orientations are indexed or foregrounded through various cultural values. Conservative-traditional cultural orientation is indexed through the cultural value of male supremacy, sexual supremacy and child ownership supremacy; liberal cultural orientation is expressed through the cultural value of patience, fatherhood and marked female support position while opting out of negotiation cultural orientation is expressed through (Im) patience, (dis) obedience (dis)honest, (dis)respect, non-submission and caution. These identified orientations are culture-specific and data-driven and are arrived at through participants' understanding of the nature of the activity and the knowledge of their cultural values and how these values are harnessed to assert and reassert their various stances in resolving disputes. Participants at different points of interaction draw from the culture tank to prohibit negotiation, allow negotiation or opt out of negotiation of their rights and intentions, which invariably show their categories of cultural orientation. In section 6, each of the cultural orientations is handled. Relevant samples are selected to exemplify each category of cultural orientations and the way they are foregrounded through different cultural values.

Conservative-traditional cultural orientations

These are strict and non-negotiated cultural beliefs, ideologies, values or elements that participants orient to in any interactional engagement. These are used to foreground their intentions and mark a specific identity category. Participants unwaveringly draw from a repertoire of cultures to unapologetically assert their cultural rights, dignity and position without negotiation in this kind of cultural orientation. Any attempt to negotiate such a culturally entrenched position is usually interpreted as a face threat that they unequivocally resist unmitigatedly, as exemplified in excerpt 1

Excerpt 1

In the excerpt, speaker H (henceforth the man), in the process of defending the allegation of irresponsibility, resists an attempt by his wife to negotiate his masculinity as the head of the house. He asserts and foregrounds his cultural rights through adherence to cultural values.

Excerpt 1

1. M: Kí á tó bè`rẹ́ sir (0.1) inquiry
2. Before we begin
3. Before we start
4. What do we do here when we receive any complaint (0.2)
5. a:::, part of our procedures is to write a letter out and
6. That was why we wrote to you.
7. Before we treat issues, we listen to both sides.
(omitted utterances here centre on the mediator's explanation of the ideology of ADR)
8. Ó ya, Madam
9. It ready, Madam
10. Over to you, Madam
11. W: Reverend xxx ní church wọn, pè wọ́n fún three days (0.2)
12. Reverend xxx in church they, call they for three days (0.2)
13. The Reverend xxxx in his church called him for three days
14. wọn ò gbé call xxxx Bí mo ẹẹ pariwo síta niyẹn xxx. . .
15. they not carry call xxxx Like I do shout out then xxx
16. he refused to pick up his calls xxx (.)
17. I had no option but to report him xxxx (0.2)
18. M: Ọ̀rọ̀ lẹ gbọ́ yìi sà
19. Word you hear, Sir
20. You have heard the allegation, Sir.
21. H: Thank you, Sir.
(the omitted portion provides insights into the nature of the marriage as well as the divorce state of the marriage)
22. M: Okay
23. H: Ní year 2000 ní, a pàde
24. In year 2000, we meet
25. **We met in the year 2000**
26. Sixteen years tí a rí ra xxxx gẹgẹ bí ọkùnrin,
27. Sixteen years that we see ourself xxxx such as man
28. **We have been together for sixteen years xxx (.)**
29. **ati igbà yen ní mo tí n rí àwon nnkan tí kò té mí lẹ̀rùn,**
30. Since time then I see many things that not suit me xxx
31. **I noticed some unpleasant behaviour then, which I am not comfortable with**
32. **tí mo dẹ́ ń complain nígbà gbogbo a á yipadà,**
33. That I complain time all she will turn back,
34. **Which I had been complaining about, hoping she would change.**
35. **Inú a á yí padà yẹn ló jẹ́ kó bí omọ mẹta fún mí.**
36. Inside she will turn back that let her birth child three for me
37. we gave birth to our three children in that hopeful situation.
(the omitted part is about the man's explanation of how his wife's non-submissive act made them move from one location to another and how he initially decided not to marry another person aside from her.)

38. H A move wá sí Èbèdí (.) iyen kó tó di pé à lọ sí IITA
 39. We move come to Èbèdí (.) that before we go to IITA
 40. We moved to Èbèdí before we relocated to IITA(.)
 41. Mo wa pé é (0.2) mo ní (.) lẹ́ yin ibi yíí a ò move lọ ibi kan mọ́
 42. I call her (0.2) I say(.) after place this we not move go any place again
 43. **I told her we were not moving anywhere after this place.**
 44. **torí ohun tó n dúró nínú ẹ (.) you are like a man (0.2) ↑**
 45. Because thing that is standing inside you (.) you are like a man
 46. because of your perception(.) You are like a man
 47. **ko dè ẹ ẹ (0.2) kí n tẹ́rìba fún ọ láyẹ ↑**
 48. Not possible (0.2) that me bow for you this world ↑
 49. it is not possible that I submit to you in this life ↑
 50. I would rather die ↑
 51. **Ìwọ ko loko mi ↑**
 52. You not is husband me
 53. You are not my husband ↑
 54. **èmi ni mo n gun orí rẹ.**
 55. I is climb head your
 56. **I am the one mounting you. ↑**
 57. Níwọ̀n, igbà tí mo bá sọ pé jókòó <<, tí o ní (0.2) o ní idea
 58. Since, time that I say that sit <<, that you have (0.2) you have idea
 59. **In as much as I told you to sit down and you insisted on your idea**
 60. o lè lọ máa dágbe (.)
 61. you can go be alone live(.)
 62. You can be living alone
 63. **Mi ò ní bá ẹ move kúrò nìbí bá yíí (.) torí mi ò ní fẹ́ pa ẹ ↑**
 64. I not have follow you move leave here this (.) because I not have like kill you ↑
 65. I will not pack along with you from this place (0.2) because I wouldn't want to kill you. ↑

The mediator sets the stage for resolution with the opening sequence in lines 1–3 as he unequivocally states the impartial ideology of the alternative dispute resolution centre, which he foregrounds in the sequence: Part of our procedure is to write a letter out, and that was why we wrote you. Before we treat the issue, we listen to both sides'. This sequence reveals the principle of fair hearing, one of the hallmarks of legal discourse and the ideology of impartiality, one of the core principles of alternative dispute resolution (ADR). Aside from the principle of fairness and the ideology of impartiality that the mediator's opening sequence punctuates, it also establishes the principle of negotiability, which is ADR's trademark. Through the current-speaker-select the next speaker turn-taking strategy, the mediator yields the floor to speaker W (henceforth the woman or wife) at line 8 and speaker M (henceforth the man or husband) at line 18. This unearths the asymmetric power relation that characterizes adjudicative discourse and foregrounds the mediator's legal-wielded power to guide the interaction and the goings-on at the ADR centre.

The woman alleges her husband of dereliction of his cultural duties in the sequence: **'And I had no option than to report him'** in line 17. The allegation projects an irresponsible father and a culture-deviant person. The man uses his turn to resist the allegation and exposes the genesis of their marital crisis, as he draws from a reservoir of culture to assert his cultural right and intention.

The man's sequence and presentation from lines 18–65 flouts the maxim of quantity¹ but provides insights into the duration of their marriage and his wife's un-submissive attitude as the leading cause of their marital crisis. His use of a masculine interactional style² unearths his orientation to the patriarchal (cultural) ideology of African society, which places the male gender above the female gender in all situations. The sequence in lines 26–37: **'We have been together for sixteen years xxx (.), I noticed some unpleasant behaviour then which I am not comfortable with which I had been complaining about hoping that she would change. It was in that hopeful situation that we gave birth to our three children'**, shows the man's alignment with the cultural value of patience entrenched in the African culture, especially the Yoruba culture. In the Yoruba community, patience is a value a man requires to keep his home together and be a good husband. The man's strategic use of exoneration strategy through implicit positive self-presentation (Ajiboye, 2021; Wagner and Wodak, 2006) and orientation to the cultural value of patience positively 'positioning'³ himself as a conformist individual and negatively 'positioning' his wife as a stubborn, unruly and mendacious person and as the reason for moving from one place of abode to another as established in line 43: **'I then told her, that after this place we are not moving anywhere'**

The sequence also implies a form of resistance to the woman's construed unruly and stubborn nature, which he interprets as a threat to his cultural role as a man and infers an act of impoliteness, which he resists through the use of the first person pronoun 'I' which he pragmatically and strategically uses to assert himself and his authority as a man' (Bramley, 2001; Thonney, 2013). This *assertive first-person pronoun* 'I' is metaphorically used as MAN IS THE HEAD, drawing reference from the patriarchal ideology of the Yoruba speech community. Its usage is borne out of the man's orientation to the cultural placement of a man who must be respected and honoured. It is equally used as a form of resistance to the perceived threat to his dignity as a man. The construed stubbornness is foregrounded in line 46 in the sequence: **'You are like a man'**, which he interprets as an unsubmitive act and a negotiation of his masculinity, which he cannot tolerate, and he resists. His unmitigated act of resistance is foregrounded in the sequence: **'It is not possible that I submit to you in this life↑. I will rather die↑'**, which he accentuates with a rising tune. The sequence implies the man's strict adherence to cultural dignity and rights of masculinity, which he is not ready to compromise. The repetitive use of the first-person-assertive pronoun emphasizes the non-negotiability of his cultural dignity as a man and is also used as a resistance strategy to the perceived face threat. The sequence: **'You are not my husband↑'** reveals the man's unwavering orientation to his cultural dignity, rights, masculinity, head and husband. The strict adherence to the cultural right is foregrounded through the evocation of the traditional value of sexual supremacy in line 56: **'I am the one "mounting" you'**. The evocation of the traditional value of sexual supremacy is to resist any form of perceived

negotiation and to assert and reassert his dignity. It is important to note that in African society, sexual intercourse is perceived as a sign of the dominance of the male gender over the female gender (Ajiboye, 2021). The apparent use of the first-person pronoun in lines 50, 56, 59, 64 and 26 is strategically and pragmatically employed to reinforce his resistance and assert his cultural rights and dignity.

Liberal cultural orientation

These are cultural values, beliefs or orientations that are negotiated by interactants in the course of resolving disputes. Instances of these negotiated orientations occur when interlocutors, rather than absolute adherence to their cultural stance, allow some of the negotiations which are afforded within the spectrum of culture for resolution's sake. It is a situation where a second chance is allowed.

Excerpt 2

In the excerpt, speaker H (henceforth the man or husband) provides a counter-allegation to the dereliction he is accused of. To defend himself, he strategically plunges into Yoruba cultural values through his relational use of language to project himself as a responsible father and an accommodating husband.

1. H: she keeps telling people that I don't have money
2. That I collect 0.01 naira,
3. she is not lying; I collect 0.01 naira,
4. I've been collecting that for over four years[↑]=.
5. M: what does 0.01 mean?=
 6. H: That is my salary. If you like []
7. M: No []
8. H: my pin is 1950, that is what
9. M: now listen, listen,
10. I want to::: be informed (0.2)... .
11. H: My salary is 0.01 naira
12. M: 0.01
13. H: 0.01 naira as salary
14. M: @@@@
15. H: I'm not the only one in OPQ;
16. we have most of the people like that []
17. M: Did you take a loan?
18. H: yes, Sir. So, with that []
19. M: but the loan should have an expiring date?
20. H: **if I've been on 0.01naira for four years now,**
21. **I have been able to take care of these children,**
22. **one got admitted into the university in the process,**
23. **one finished her school ABC= ,**
24. **others are still in that same school.**
25. **I know how much I'm paying[↑][]**
26. M: for their school fees
27. H: **I've been feeding them,**

28. I have been clothing them.
 29. it goes a very long way to how irresponsible I could be[↑]
 (0.2)
 30. Now if I could have been able to do that on 0.01naira (.)
 31. if she decides now, that she wants her kids (.)
 32. A father can be easily be replaced xxxx
 33. that is not a problem,
 34. but you cannot tell them that I am not their father(.)
 35. you can only ask someone to sit on my behalf(.)
 36. I've given room for peace (.)
 37. Before I went to court (.)
 38. I had stayed with her for four months without her feeding me
 (0.2)
 39. My children are around; they can testify.
 40. She doesn't care.
 41. She comes home when she wants to.
 42. She lives in the house when she wants to
 43. even though she would say the rain is heavy,
 44. she can't come home to check on her children,
 45. or she is going for prayers, and she can't miss it
 46. at the end of the day, I discovered she was not there.
 (0.2)
 47. So, these are things, these are issues.
 48. The day we went to court her
 49. I left the house, and when we got to the court,
 50. I told her, I told the magistrate,
 51. I said, it is true I came to initiate this.
 52. M: Hun:::::
 53.
 54. H: but, but if, if she could change,
 55. if she could change the waywardness I accused her of,
 56. if she could respect my person as the husband of the house,
 57. and as the father of the house=
 58. and if she could, the last one was this=
 59. see me as the husband=
 60. I'm not interested in the dissolution of the of that marriage

The man's sarcastic presentation of his financial status, which is judged by his monthly salary, opens the interaction in line 1 and runs to line 17. The meta-comment '**she keeps telling people that I don't have money, that I collect 0.01 naira**' is strategically used to 'positioning' his wife as a monger and an indiscreet, and also a strategy to attack her face. In African society, especially in Yoruba culture, wives are expected not only to be home keepers but also to serve as coverage for their husbands and keep the family's secrets (Ajibade, 1999). This is foregrounded in the Yoruba's sayings, 'Bi obinrin mawo, ko gbodo fo, ko gbodo wi' which is translated as '*if a woman knows about a cult, she must not talk*'. This means a woman is expected to keep secrets because women control men's success and existence (Ajibade, 1999). This cultural value is also foregrounded in the usage of the saying: '*Inu ile ara eni la nti je ekute*

onidodo’ which is translated as ‘*It is in one’s privacy that one eats a rat with a conspicuous navel*’ which means you don’t wash your dirty linen in public; a cultural expectation the woman falls short of in the meta-comment ‘**she keeps telling people**’.

The counter-allegation of an act of irresponsibility and dereliction of duties is introduced with a pragmatic counter-allegation *if-clause* in line 18. The *if-clause* construction is used as a meta-pragmatic signal of sarcasm, which indexes the violation of Grice’s (1975) maxim of quality.⁴ The violation of the maxim of quality in the interaction provides insights into the man’s alignment to the cultural value of fatherhood through shared knowledge of the sarcastic relational use of language, which implicitly positioning the man as a responsible father in lines 20–29 on the one hand, and unearths the man’s cultural liberality in lines 30–60, on the other hand.

The sequence ‘**if I’ve been on 0.01naira for four years now, and I have been able to take care of these children, one got admitted into the university in the process, one finished her school ABC, others are still in that same school. I know how much I’m paying, I’ve been feeding them. I have been clothing them**’, illuminates the man’s adherence to the cultural value of fatherhood which he affectively foregrounded through evidence-based assertions in lines 20–30. The sequences, therefore, implicitly reveal a cultured-oriented man and a responsible father who does culturally allowable duties without any support from his wife.

Using the exclusive pronoun ‘I’ in the sequence exposes his orientation to the cultural element of fatherhood and his exclusive shouldering of his cultural responsibilities, which is foregrounded in the emphatic use and the repetitiveness of ‘I’ in lines 20, 21, 25 and 27. The emphatic meta-comment ‘**it goes a very long way to how irresponsible I could be**’ negatively implicitly positioning the woman as a mendacious person and positively implicitly positioning the man as a dutiful and responsible father.

The man’s sequence in lines 30–35 presents a culturally liberal man who willingly allows negotiation of his cultural right for peace and resolution. Rather than strict adherence to his cultural exclusive child ownership, the man allows this cultural right to be negotiated for the sake of peace in the sequence ‘**Now if I could have been able to do that on 0.01naira (.) if she decides now, that she wants her kids (.) A father can be easily be replaced xxxx that is not a problem**’. The sequence provides insights into the wife’s demand to take custody of the children, an action that is not in tandem with Yoruba culture. In Yoruba society, the male gender is believed to have exclusive ownership of the children, and this is foregrounded in the axiom ‘*Okunrin lo lomo*’ which means the male gender owns children. The meta-comment ‘**that is not a problem**’ implies the man’s subscription to negotiate his cultural right of child ownership.

Through insertion sequence punctuated by topic control strategy, the man diverts the topic of discourse from the counter allegation of dereliction to providing illumination into his wife’s unruly, mendacious and promiscuous attitude in lines 38–60, which indirectly punctuates his displeasure. The sequence ‘**I’ve given room for peace (.) before I went to court**’ provides insights into the family’s marital situation and how he allows his masculinity and dignity to be negotiated, a situation that projects liberality. The sequence implicitly unearths the man’s orientation and display of patience

with his wife's unruly, mendacious and irresponsible behaviour in the meta-comments 'I had stayed with her for four months without her feeding me. My children are around; they can testify. She doesn't care. She comes home when she wants to. She lives in the house she wants to even though she would say the rain is heavy, she can't come home to check on her children, or she is going for prayers, and she can't miss it, and at the end of the day, I discovered that she was not there'. In the sequence, the man deploys a negative-positioning interactive cue through evidence-based assertions to project his wife as an irresponsible person. At the same time, he subtly counters the allegation levied against him and justifies his decision in line 49. Rather than orientating to conservative-traditional cultural male supremacy, for the sake of peaceful resolution, the man allows the cultural right to be negotiated through conditional if-clause construction in lines 54, 55, 56 and 58. The repetitive use of if-construction in the sequence indicates an emphatic expression of his stance on the resolution on the one hand and the negotiation of masculine cultural rights to preserve the sanctity of marriage on the other hand. In African society, especially the Yoruba community, divorce is not encouraged culturally (Ajibade, 2005, 2009), and since the man is of Yoruba extract, he expresses his desire for a peaceful resolution.

Opting out of negotiation cultural orientation

These are classified or individual-oriented cultural behaviours interlocutors orient to in a conflictual situation to foreground their unyielding stance or intention even after several appeals. Interlocutors draw from some cultural principles to justify their inflexible actions despite interventions from the mediators. Rather than give room for negotiation, participants unyieldingly maintain their stance and reject any form of negotiation.

Excerpt 3

This interaction is between a separated husband and wife. Through past events, the wife was able to establish her unwillingness to settle the dispute with her husband despite a vigorous attempt by the mediator and family members.

1. B: Ẹ mọ nṣkan tó ṣẹlẹ̀ (.)
2. They know things that happen
3. Do you know what happened
4. o ló o ti wá for the past fifteen years,
5. you say you have been for the past fifteen years
6. you said for the past fifteen years(.)
7. have you not been living comfortably↑
8. <or kí lo n sọ`rọ̀ nipa ẹ?>↑
9. or what you talking about it
10. or what are you saying?
11. C: Comfortable (.) en:: Sir, is there any peace?↑
12. I'm living in his house as a slave=

13. bí ẹnì tí wọ́n lọ fi singba,
 14. Like person that they go use serve
 15. **like someone who has lost their freedom**
 16. yes, mo lè máa rìn káwọ̀n èyàn máa rí mi
 17. yes, I can be walking the people see me
 18. **I could be walking and people could see me (0.1)**
 19. ẹ̀ bèèrè lọ́wọ́ wọ̀n, wí pé pé méléò ní mo fẹ́ sọ↑ (.)
 20. They ask from them, say that how many is I want say
 21. **ask him, my experiences are too numerous to explain↑**
 22. Ẹ́ ẹ̀ sọ tí mo fowó ara mi rà tí wọ́n yá ní mo fẹ́ sọ?
 23. Is cloth that I use money body me buy that they tear is I want say?
 24. **Is the clothes that I bought that he tore into pieces?**
 25. Èyí tí wọ́n jókòó tí, tí wọ́n destroy, ẹ̀ ọ̀n ní mo fẹ́ sọ?↑
 26. Those that they sit with, that they destroy, is that I want say?↑
 27. **Or those that he destroyed?**
 28. Àbí kí tí í bá ẹ̀ pé Ọ̀lọ́run ọ̀ fún wọ̀n ní oore-ọ̀fẹ́ ọ̀jú yíi (0.2)↑
 29. or if not for that God he give them the grace eye this (0.2)↑
 30. **Or if not for the fact that God did not permit him the grace of this face (0.2)**
 31. **he would have have destroyed it long long long ago↑**
 (tapping her fingers)
 32. A: The question[]
 33. B: That one is not an issue now. ↑
 34. A: The question, the question
 35. B: Ẹ́ jẹ́ kí n sọ []
 36. Let me say
 37. A: <Ẹ́ ní sùúrù madam>
 38. <They have patient Madam
 39. <Be patient, Madam>
 40. The question (0.2) ohun táwa ń sọ ní pe
 41. thing we saying is that
 42. The question (0.2) what we a saying is that,
 43. gbogbo ohun tó tí ẹ̀lẹ̀, ọ́ tí kọ́já ẹ̀yìn.
 44. Everything that have happened, it has passed back
 45. All that happened belongs to the past
 46. C: Daddy, I believe you, mo ẹ̀ gba nńkan tẹ́ ẹ́ sọ.
 47. Daddy, I believe you, I take thing that you say
 48. **Daddy, I believe all you said, and I have accepted,**
 49. **But, how am I going to be sure,**
 50. **Iná èsìsì Yorùbá ní kii jó ní lẹ́ ẹ̀ mejì.**
 51. **Fire poisonous caterpillar Yoruba says should burn not a person twice**
 52. **The Yoruba say poisonous caterpillar fire should not burn a person twice**
 53. A: Okay.
 54. C: >Then, hum (0.2) even the Bible says that affliction shall not rise the second time.

55. If at all ah, if at all < []
56. A Ẹ ní sùúrù []
57. Be patient
58. C: >**I'm not convinced o** <↑,
59. A: <Madam>(0.2) honestly, èmi ò mọ ohun tí ẹ ní pass through (.)
60. <Madam>(0.2) honestly, I not know thing that you passing through (0.2)
61. <Madam>(0.2)honestly, I don't know what you are going through
62. (.) but let me tell you the truth (0.2)
63. mo fẹ́ kẹ́ ẹ lọ gbàdùrà gidigidi
64. I want you go pray well
65. <I want you to pray very well
66. <Mo fẹ́ kẹ́ ẹ lọ gbàdùrà gidigidi
67. I want you go pray well
68. <I want you to pray very well
69. sẹ ẹ rí i> tí obinrin ba kùrò nilé ọkọ
70. you see it> if woman leave house husband
71. you see if a woman leaves her matrimonial home
72. táwọn ọmọ tó kó ò bá gbàdùrà dàadáa
73. If children she born do not pray very well
74. if her children do not pray well
75. the same[
76. Let me tell you one thing you don't know,
77. from three, XYZ, ó dùn mí pé xyz kò sí nibí báyii lónii(0.2)
78. from three, XYZ, it pains me that xyz not here now today (0.2)
79. from three, it pains me that XYZ is not here today
80. Three months old ni pregnancy ẹ ti wà níkùn mí
81. Three months old is pregnancy him has be in stomach me
82. I was with XYZ's three-month-old pregnancy
83. **tí ọmọkùnrin yii tí máa ń nà mí**
84. **that malechild this has always beating me**
85. **that this man began to beat me**
86. **mí ò lóyún rí kó má nà mí**
87. **me not have prgenacy that-he not beat me**
88. **He always beats me during pregnancy**

The man employs ampliative inference⁵ into his wife's complaint to open the interaction in lines 1–7. This sequence, 'Have you not been living comfortably', indirectly alleges his wife of lack of contentment and an attempt to attack his wife's face value, an interactional action vehemently rebuffed through a rhetorical interactive device in lines 11–32. She uses the rhetorical interactive device to recount her ordeals of battery and assault, which she backs up with evidence-based assertions in lines 11–32. This device is employed to positioning her husband negatively on the one hand and to foreground her uncompromising stance on the issue of resolution on the other hand. The woman's various evidence-based experiences in lines 7–32, 47–55 and 77–89

ultimately flawed the man and mediator's interactional expectation. The extra-linguistic cue of fingers tapping in line 32 further reinforces her unyielding stance about the resolution. Equally, it shows her affective displeasure of her experience, which she foregrounds in the meta-comment, **'Or if not for the fact that God doesn't permit him this-face, he would have have destroyed it long long long ago'**. The meta-comment negatively positioning the man and justifies the woman's eventual action. It is important to note that rhetorical interactive cues are employed to threaten/damage her husband's positive face, thereby casting him as an irresponsible and cultural non-conformist.

The man's sequence: **'That one is not an issue now'**, in line 34, indicates an indirect admittance to his wife's allegation of battery and assault but is strategically used to gain and boost his lost face; an interactional negotiation is not confirmed by his wife, which invariably leads to an attack on his face value (Brousfield, 2013:41).

The effort by the mediator to hijack the floor from the woman proves abortive as she affectively holds on to the floor until she discursively foregrounds her uncompromising stance and opts out of any form of negotiation. The mediator's indirect persuasive strategy, in lines 38–46, is to implore the woman and reconsider her stance, which proves to be abortive. She uses her turn to scrap the mediator's imploration and further establishes the act of battery by evoking the cultural value of caution in line 53. She uses a Yoruba proverb, **'Poisonous caterpillar fire should not burn a person twice'** (which could be translated in Standard English to be **'Once beaten twice shy'**) not only to foreground the battery attitude of the man but also to forestall a future occurrence, which activates the cultural value of caution. The proverb foregrounds her uncompromising stance about any form of resolution or negotiation and is used to avoid and forestall a repeat of her ordeals. She reinforces the value of caution by alluding to the Bible: **'even the Bible says that affliction shall not rise the second time'** in line 55. The allusion establishes her uncompromising stance on settlement and opting out of negotiations. Her ordeal and experience, through the evocation of the value of caution and the allusion, is metaphorically constructed as fire and affliction to support her uncompromising stance and the basis for opting out of the negotiation. In line 58 and lines 61–76, the mediator employs an appealing strategy and indirect persuasive strategy through threat-mediating utterances to charge and appeal and negotiate the woman's unyielding stance, but the interaction expectation is not confirmed by the woman in the interrupted sequence **'I'm not convinced'**. She justifies her decision through different experience-based evidence of battery and assault. The sequence **'He always beats me during pregnancy'** is an evocation of experiential evidence used in positioning her husband negatively and to justify her uncompromising stance.

Conclusion

In the foregoing, three cultural orientations have been identified in the Nigerian alternative dispute resolution encounters: conservative-traditional cultural orientation, liberal cultural orientation and uncompromising cultural orientation. In the respective cases, participants, during resolution, discursively rely on and draw from their cultural reservoir during dispute resolution to assert their stance, position self(ves) and establish their

intention(s). The cultural expression, seated in the theoretical frames of Levinson's notion of activity parts and functionalism theory of culture, has demonstrated the ability to explain participants' interactional moves, contextually grounded activity, verbal practices and participants' adherence to and understanding of culture in alternative dispute resolution encounters. Their provisions for discursive construction of socio-cultural realities, negotiated language use and context-determined cues offer the strategic arsenal for unpacking cultural value layers that characterize adjudicative encounters. The paper ultimately argues that cultural realities have a significant role (s) in the dispute resolution processes. Hence, culture plays a substantial role in meaningful dispute resolution in any society and in peaceful coexistence.

Acknowledgements

I am grateful to Prof. Dr Anita Fetzter for her unquantifiable contributions, valuable comments and advice in this research paper. I am also thankful to the Yoruba scholars especially Prof. Sola Ajibade and Dr William Sangotoye, who assisted in data interpretation and provided insights into Yoruba culture that are useful in the paper. This research was part of my project on 'Cultural orientations in the construction of identity and negotiating justice in Nigerian adjudicative discourses' at the University of Augsburg, which was undertaken with the Alexander von Humboldt Foundation.

Declaration of conflicting interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

Notes

1. Maxim of quantity is one of Grice's (1975) cooperative principle maxims. it states that contribution should be informative as require, and contribution should not be more informative than required. Whenever any of the maxims is suspended, violated or flouted, implicature is generated. (Grice, 1975; Mey, 2001; Thomas, 1995)
2. Masculine interactional style is characterized with competitive, dominate, aggressive interruption, task-oriented, autonomous, direct (Holmes, 2006:6; Shepherd and Pringle, 2004:7)
3. Positioning theory is a means for exploring and describing how interactants construct themselves and their world and how they are constructed through discourse. It emphasizes the construction of the world through talk between interlocutors (David and Harré, 1990/2001; Harré and Van Langenhove, 1999)
4. Grice's (1975) maxim of quality is one of the four maxims of cooperative principle in communication. it centres on not saying what you believe to be false; not saying that for which you lack adequate. When any of the maxim is violated or flouted, it generates implicature.
5. Ampliative inference is a conclusion that contains information beyond the premise or data. This type of inference is inductive and even goes beyond it. (Peirce, 1883; Salmon, 1967: 143)

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