NATIONAL ALTERNATIVE DISPUTE RESOLUTION POLICY

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TABLE OF CONTENTS

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ACRONYMS

ACRWC	African Charter on the Rights and Welfare of the Child
ADR	Alternative Dispute Resolution
AfCFTA	African Continental Free Trade Area
AJS	Alternative Justice System
CADER	Center for Arbitration and Dispute Resolution
CLE	Continuous Legal Education
CPA	Civil Procedure Act
CPD	Continuous Professional Development
CPR	Civil Procedure Rules
CRC	Convention of the Rights of the Child
CSO	Civil Society Organisations
FBO	Faith based organisations
ICAMEK	International Centre for Arbitration and Mediation in Kampala
ICCPR	International Convention on Civil and Political Rights
ICSID	Convention on the Settlement of Investment Disputes between States and Nationals of Other States
MDAs	Ministries, departments and agencies
NAP	National Action Plan
ODR	Online Dispute Resolution
PAC	Practice Area Committee
SDG	Sustainable Development Goals
TAT	Tax Appeals Tribunal
UDHR	Universal Declaration on Human Rights
UIA	Uganda Investment Authority
ULS	Uganda Law Society
UNCITRAL	United Nations Commission on International Trade Law

List of Authorities

National Legislation

Constitution

Constitution of Uganda, 1995 (as amended)

ADR Forms

Arbitration Act, Cap 55 (Laws of Uganda 1964)
Arbitration and Conciliation Act, Cap 4
Arbitration and Conciliation (Amendment) Act, No 3/2008
Civil Procedure Rules, General Notice 607/1928
Civil Procedure Rules, SI No 71-1
Civil Procedure (Amendment) Rules, SI No __/1998
Civil Procedure (Amendment) Rules, SI No 33/2019
Commercial Court Division (Mediation Pilot Project) Practice Direction, LN No 7/2003
Arbitration and Conciliation (Appointment of International Centre for Arbitration and Mediation in Kampala as an Appointing Authority) Notice, LN No 4/2020
Judicature (Commercial Court Division) (Mediation) Rules, SI No 55/2007
Judicature (Mediation) Rules, SI No 10/2013
Judicature (Reconciliation) Rules, SI No 41/2011

Criminal Justice

Magistrate Courts Act, Cap 16
Judicature (Plea Bargain) Rules, SI No 43/2016

Elections

Parliamentary Elections (Election Petitions) Rules, SI 141-2
Parliamentary Elections (Election Petitions) (Amendment) Rules, SI No 24/2006

Employment

Employment Act, No 6/2006
Labour Disputes (Arbitration and Settlement) Act, No 8/2006
Labour Disputes (Arbitration and Settlement) (Amendment) Act, No 3/2021
Labour Disputes (Arbitration and Settlement) (Industrial Court Procedure) Rules SI No 8/2012

Investment

Investment Code Act, Cap 92 (repealed)
Investment Code Act, No 6/2019

Land

Land Act, Cap 227 (as amended)

Taxation

Tax Procedures Code (Alternative Dispute Resolution Procedure) Regulations, SI No 28/2023

Traditional or Cultural Institutions

Institution of Traditional or Cultural Leaders Act, 2011

National Policies, Plans and Strategies

GOU, Uganda Vision 2040
GOU, National Development Plan III, 2020/21-2024/25

JOU, Judiciary Strategic Plan V, 2021/22-2024/25

National Case Law

Centre for Arbitration and Dispute Resolution & Another v. Attorney General, Constitutional Petition No 11/2019 (CC)
International Development Consultants Ltd v. Jimmy Muyanja & Others, Misc. Cause No 133/2018 (HC)
Kanyamunyu Mathew v. Uganda, Misc. Appln No 151/2020 [2020] UGHCCRD 144 (HC)
Vantage Mezzanine Fund II Partnership v. Simba Properties Investments Co Ltd & Another, Misc. Appln No 201/2020 [2021] UGCommC 23 (HC)

International Instruments

Agreement establishing the Africa Continental Free Trade Area, 2018
Convention on the Settlement of Investment Disputes between States and Nationals of Other States, 1965
East African Court of Justice Arbitration Rules, 2012
New York Convention on Enforcement of Foreign Arbitral Awards, 1958
Treaty on the Establishment of the East African Community, 1999
UNCITRAL Model Law on International Commercial Arbitration, 1976
UNICITRAL Arbitration Rules, 1976
UNCITRAL Conciliation Rules, 1976
United Nations Convention on International Settlement Agreements resulting from Mediation, 2018

INTRODUCTION

This Policy is anchored in the *Constitution of Uganda*, 1995 (as amended); international and regional human rights instruments (ratified by Uganda); the Sustainable Development Goals (in particular, SDG 16.3) on the rule of law and access to justice; the *Uganda Vision* 2040; the *National Development Plan III*, 2020/21-2024/25; and the *Judiciary Strategic Plan V*, 2021/22-2024/25.

The **rationale** for this policy consists of the following facts:

(a) The Judiciary is continuing to face increasing case load, as matters continue to be filed before the courts across the country, which continues to contribute to case backlog.

(b) Further, the justice system, in terms of the courts, faces a crisis in terms of accessibility of justice. This is not new. In 2016, a justice needs' report revealed that courts and lawyers are marginal to the experience of the day-to-day justice needs of Ugandans. The report revealed that less than 5% of the dispute resolution takes place in court and less than 1% of all the cases is a lawyer involved. The report further revealed that most Ugandans rely on the informal justice process. The report recommended the adoption of alternative dispute resolution (ADR) mechanisms as means of resolving disputes in a fair manner.

(c) ADR has been a major counterpart to judicial litigation (before courts) in the resolution of disputes. ADR mechanisms include, *inter alia*, arbitration, mediation, conciliation, and inquiry. ADR has been a mainstay in Uganda's dispute resolution processes. Currently, the ADR framework is encapsulated in the *Arbitration and Conciliation Act*, Cap 4 (as amended), a plethora of courts mediation and conciliation rules (e.g. the *Judicature (Commercial Court Division) (Mediation) Rules*, 2007; the *Judicature (Mediation) Rules*, 2013; the *Judicature (Conciliation) Rules* 2011), 2019 amendments to *Civil Procedure Rules*, and in various other pieces of legislation on settlement of, among others, labour disputes, tax disputes, etc. The court-annexed mediation has been a fixture of civil (and related) litigation for past 10-15 years.

(d) As a reconciliatory and mostly non-adversarial approach, ADR is a vehicle for timely resolution of disputes, while preserving critical relationships. The relationships can be business, familial, and so on.

(e) ADR is a self-financing mechanism for dispute resolution where neutral third parties are paid by users of its multi-faceted forms.

(f) As a cost-benefit, supporting ADR development is beneficial to Government as it reduces the burden on the Consolidated Fund.

(g) The above facts underpin conceptual problems, lack of clarity in scope of ADR, and a patchwork of the ADR legal framework. This state of affairs, coupled with attendant institutional framework issues, call for the reform the existing ADR framework and practice and are the premise for the development of robust national ADR policy framework for country.

(h) Notably, ADR promotes access to justice by providing a variety of *alternative* dispute resolution mechanisms that, if adequately reformed, offers a broader range of access-points to justice.

The Policy is framed against what can be regarded as its key **objectives** as:

(a) As a policy to underpin the access to justice under the national justice systems.

(b) To underpin the nexus between dispute settlement and attractiveness of an economy for foreign investment (in terms of ease of doing business and dispute resolution).

(c) To position the potential of ADR to divert focus from litigation and, in effect, to complement and de-clog the court system.

(d) To *localize* justice and justice delivery, in terms of inculcating an "ownership" principle, with the users of the ADR embracing it as their own in resolving their disputes. The business sector sees it, in resolving a commercial dispute, as their own, and so would a community resolving its own, say, land dispute.

(e) To address the justice-related concerns raised in the national development context, in terms of:

    (i) Case backlog and delays in delivery of justice that remains one of the main impediments in access to justice. Delays in the disposal of matters mean that vast assets are tied up in litigation for prolonged periods, thereby hindering economic development processes

    (ii) Land justice disputes that continue to take up a large proportion of the load in terms of case backlog.

    (iii) Access to legal aid that is essential to guaranteeing equal access to justice for all.

    (iv) The need to strengthen the capacity and operations of the commercial justice institutions to provide fast and effective dispute resolution in all the specialized areas.

    The national development context positions, as critical interventions, strengthening of "informal justice processes" (for a people centred delivery of justice, law and order services), and the need to "roll out alternative dispute resolution" (as a critical reform to facilitate private sector development).

The Policy proposes several commitments of the Government towards addressing sectoral development and bridging the gaps and challenges in the justice system that impede ADR. The **commitments** include the following:

(a) Adapting an inclusive approach to the definition and scope of ADR.

(b) Situating the oversight mandate for the sector in a national umbrella agency, in the form of a national ADR Council.

(c) Establishing Practice Area Committees (PACs) to champion growth and governance of respective areas of practice.

(d) Promoting self-regulation and governance of the ADR sector.

(e) Option to enact an omnibus *Dispute Resolution Act* or, in the alternative, autonomous practice-based legislation which shall be the framework legislation for the ADR sector.

(f) Encouraging the establishment of an ADR Centre at the Judiciary as the focal point for linkage and coordination of the Judiciary with the ADR sector, and promotion of ADR in the Judiciary.

(g) Encouraging the establishment of a special ADR settlement agreements' registry and depository at the Judiciary for the registration and depositing of ADR awards and settlements.

(h) Positioning traditional and community institutions in the resolution of disputes at the grassroots' level.

(i) Proposing strategies and modalities for the promotion of availability, accessibility, and uptake of ADR in the Country including compulsory subjection of disputes to ADR, and compulsory pre-court ADR information sessions.

(j) Establishing of programmes for capacity development; quality control; research and knowledge management and leveraging of Information Communication Technology (ICT) for ADR development.

(k) Developing a National Action Plan for the implementation of the policy, a financing strategy for it, and a monitoring and evaluation framework for progress monitoring.

The Policy is **structured** into five parts:

Part 1: Presents the background, and status of ADR in the Uganda which form the **policy context**.

Part 2: Presents the **policy problem**—that is, the challenges, gaps and needs in the ADR sector.

Part 3: Articulates the **policy strategic framework**, stipulating the rationale, vision, mission, objectives, risks and assumptions of the Policy.

Part 4: Presents Government commitments in **policy statements** mapped to the identified problem areas.

Part 5: Presents the **policy implementation arrangements** and **cost implications**.

PART I: THE ADR POLICY CONTEXT

1.1. Background: ADR and access to justice in Uganda

Alternative dispute resolution (ADR) is defined as the formal methods of settling disputes other that by court action, collectively. [1] ADR is an approach to access to justice and is being adopted across the globe as a complement or alternate to the conventional law suits or litigation. Access to justice is a fundamental right that guarantees one to an independent and impartial process to protect rights that are at stake. Access to justice should be timely, accessible, and effective in remedies, in tandem with Constitution and international human rights standards.

The concept of ADR is not new in the Uganda context. Before introduction of formal justice systems, Ugandan cultures had different mechanisms of resolving disputes. In particular, use of third parties or neutral persons to resolve disputes was part of the traditional conflict resolution processes, with a key objective in the fostering reconciliation, peace and unity in the communities.

As a modern State, Uganda first promulgated an *Arbitration Act* in 1930 and the Civil Procedure Rules (later S.I. 63-1, but first promulgated by General Notice 607/1928) as legal frameworks that paved way for court-based ADR.

Prior to ADR being formally integrated in Uganda's justice system, there were a number of challenges based on beliefs, e.g., the justice system being adversarial, the rights of the parties would not be protected; ADR was an impediment to the rule of law; and further that ADR would oust the powers of courts in administration of justice. However due to the changing socio-economic realities and acceptance by disputing parties, and ADR's cost effectiveness and speedier resolution of disputes, ADR gradually came to be viewed as a tool of access to justice.

A key driving force for incorporation of ADR in Uganda's justice system was the changing international trade that dictated a need for universal mechanisms to resolve disputes which prompted the United Nations Commission on International Trade Law (UNCITRAL) to come up the UNCITRAL Arbitration Rules 1976, the UNCITRAL Conciliation Rules 1976 and the UNCITRAL Model Law on International Commercial Arbitration, these legal documents and the New York Convention of 1953 led to enactment of the *Arbitration and Conciliation Act,* Cap 4 to incorporate the said legal documents. Further, in order to foster trade and foreign investment, development partners demanded (and supported) enactment of commercial laws that promote ADR, and this influence the enactment of the *Investment Code Act,* Cap 92 which has since been repealed and replaced by the new *Investment Act* 2019.

On a constitutional basis, the 1995 Constitution of Uganda, under Article 126 enunciated the principles embedded in ADR such as justice shall not be delayed, reconciliation between the parties to the dispute and administration of justice without undue regard to technicalities.

[1] Webster, New World Law Dictionary, at 25.

Subsequently, the Commercial Court Division of the High Court was established in 1996 by the Hon Chief Justice Wambuzi (as he was then), in its execution of its mandate the court was enjoined to incorporate ADR by being proactive.

In 1998, the Civil Procedure Rules were amended by the *Civil Procedure (Amendment) Rules* 1998 to introduce scheduling which required parties set out issues of agreement and disagreement and the possibility of ADR. The *Arbitration and Conciliation Act* was coming into force repealing the Arbitration Cap 55 which, among other things, established CADER. The Chief Justice Hon Justice Benjamin Odoki, through Legal Notice No 7/2003 issued the Commercial Court Division (Mediation Pilot Project) Practice Direction, 2003 which piloted mediation as a form of court annexed ADR at the commercial division.

ADR has now been incorporated in a number of legislation to include, among others, the Land Act, Labour disputes and Arbitration Act, Employment Act, the Judicature Act.

1.2. Normative framework for ADR

There have been great strides in the development of ADR since promulgation of the 1995 Constitution of Uganda, and the strides are evident in subsequent legislation and regulations that provide for the use of ADR in resolution of disputes.

1.2.1. Constitution

Article 8A of the Constitution of Uganda 1995 (as amended) provides that Uganda shall be governed based on the principles of national interest and common good enshrined in the national objectives and directive principles of state policy.

The objectives and principles guide that all organs and agencies of the State, all citizens, organisations and other bodied and persons in applying or interpreting the constitution or any other law and in taking and implementing any policy decisions for the establishment and promotion of a just, free and democratic society.

Under objective II on the protection and promotion of fundamental and other human rights and freedoms, the state is duty bound to guarantee and respect institutions which are charged with responsibility for protecting and promoting human rights by providing them with adequate resources to function effectively. Article 126 of the Constitution recognizes that judicial power is derived from the people and the administration of justice shall be in conformity with the law values, norms and aspiration of the people. It further emphasizes that in adjudicating cases of both a civil and criminal nature, the courts shall, subject to the law, apply the reconciliation between parties.[2]

1.2.2. National legislation

(a) Judicature Act, Cap 13

Sections 26 to 30 of the *Judicature Act* provide for ADR. The High Court is, under this Act, clothed with powers to refer to an official or special referee for inquiry and report any question arising in any cause or matter provided it is not a criminal matter. A report made by the official or special referee may be adopted wholly or partly and if so adopted may be enforced as a judgment or order of the High Court.

Further, the High Court has powers to conduct trial by referee or arbitrator in a cause or matter other than a criminal proceeding where parties interest is not under disability consent, where the matter requires any prolonged examination of documents or any scientific or legal

[2] Article 126(2)(d) of the Constitution of Uganda, 1995.

investigation which cannot, in the opinion of the court, conveniently be conduct by the court through its ordinary officers or the question in dispute consist wholly or partly of accounts.

(b) Investment Code Act, 2019

Section 25 of the *Investment Code Act* provides for settlement of disputes between the government or Investment Authority and investors, this section dictates that in case of any dispute between the Government or UIA and an Investor in respect of a registered business enterprise, the parties shall endeavor to settle the dispute through negotiations for an amicable settlement in accordance with the *Arbitration and Conciliation Act* and, in the event negotiations fail, the dispute maybe submitted to arbitration in accordance with the *Arbitration and Conciliation Act*.

(c) Civil Procedure Act, Cap 71 and Civil Procedure Rules S.I. 71-1

Order 12 Rule 1 of the Civil Procedure Rules, as a way of promoting ADR, provides for a scheduling conference before hearing of a civil matter before a judge to enable the parties sort out issues of agreement and disagreement and the possibility of ADR.

Pursuant to Order 12 Rule 2 of the CPR where parties do not reach an agreement, the court may, if it is of the view that the case has a good potential for settlement, order alternative dispute resolution before a member of the bar or the bench, named by the Court. Order 47 of the CPR provides for arbitration under order of Court and pursuant to Rule 1 the parties to a suit may where interested apply to court for an order of reference of the matter to arbitration at any stage of the trial before judgment is issued.

(d) Arbitration and Conciliation Act, Cap 4

The Arbitration and Conciliation Act regulates domestic arbitration and conciliation, international commercial arbitration and enforcement of foreign arbitral awards.
Pursuant to section 5 of the Act a Judge or Magistrate can stay legal proceedings in a matter which arise out of an agreement that has an arbitration clause.

The Act also established the Centre for Arbitration and Dispute Resolution (CADER) under section 67 whose major role is to act as an appointing authority" for arbitrators and supervise arbitrations and to guarantee respect and adherence towards arbitration awards which are final and can only be set aside on strict grounds set under the act, this serves to uphold and ensure that ADR is does not lose meaning.

(e) Employment Act, 2006

The *Employment Act* establishes the office of the labour officer. Under sections 93(1) and (2) of the Act, labour officer has powers to entertain complaints in relation to employment or in connection with any of the rights granted under the Act the officer's jurisdiction to hear, and to settle by conciliation or mediation a complaint.

(f) Labour Disputes (Arbitration and Settlement) Act, 2006 (Act 8 of 2006)

Similar to the *Employment Act*, 2006, this Act empower the labour officers to entertain labour and employment related disputes and determine them by way of mediation and conciliation as the forum of first instance in employment matters.

The other legislation that promotes ADR include the *Institution of Traditional or Cultural Leaders Act* 2011; the *Land Act*, Cap 227 (as amended), the *Magistrates' Courts Act*, Cap 16.

1.3. International instruments

Internationally ADR has been used as the most efficient and favored form of settling disputes this is because it is cost effective, precise and promotes good relations.

Uganda is a signatory to a number of international instruments that promote ADR and these include the United Nations Commission on International Trade (UNCITRAL) Model Law on International Commercial Arbitration as well as the UNICITRAL Arbitration Rules 1976 and the UNCITRAL Conciliation Rules 1976, these have been incorporated in the Arbitration and Conciliation Act as amended. Further, in respect of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the "ICSID Convention"), the Arbitration and Conciliation Act provides for enforcement of ICSID Convention awards, the ICSID Convention provides a forum for conciliation of disputes between Member States and foreign investors qualifying as nationals of other Member States. Uganda is a member state to the ICSID. On its part, the New York Convention which specifically provide for enforcement of awards New York Awards.

At the international human rights level, the Charter of the United Nations, the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social, and Cultural Rights (CESCR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations Convention on the Rights of the Child (CRC) and, at the continental stage, the African Charter on the Rights and Welfare of the Child (ACRWC), all provide for a right to access to justice, and in pursuit of the same, ADR is encouraged.

Adopted in 2018, the United Nations Convention on International Settlement Agreements resulting from Mediation (the "Singapore Convention on Mediation") applies to international settlement agreements resulting from mediation ("settlement agreement"). It establishes a harmonized legal framework for the right to invoke settlement agreements as well as for their enforcement. The Singapore Convention is a key instrument for the facilitation of international trade, and the promotion of mediation as an alternative and effective method of resolving trade disputes is of great significance. The instrument aims at bringing certainty and stability to the international framework on mediation.

Finally, at the regional level, Uganda is a Partner State of the East African Community and therefore a signatory to the EAC Treaty that provides for resolution of disputes through, among others, mediation and arbitration. At the continental level, Uganda is signatory to the Africa Continental Free Trade Area (AfCFTA) Agreement, which provides for arbitration as an ADR "dispute settlement avenue".

1.4. The National Development context

In the recent years, there has been significant progress in social and economic development towards the sustainable growth of the country, and access to justice is key in ensuring growth and development in the economy in line with the SDGs that constitute Agenda 2030.

ADR is key in ensuring that there is access to justice for all, as efficient and effective mechanisms. SDG 16.3 commits the international community to promote the rule of law at the national and international levels and to ensure equal access to justice for all by 2030. To fulfil this commitment, Uganda adopted *Uganda Vision, 2040* to identify and operationalize the country's development paths and strategies, the vision lays down the aspirations and targets of the country and one of the aspirations is to have a morally upright God-fearing society with values of fairness, justice, respect, truth, responsibility and patriotism. These aspirations are pursued through 5-year National Development Plans (NDPs). The vision and NDPs were formed on tenets of good governance, which include constitutional democracy,

protection of human rights, rule of law, political and electoral processes, transparency and accountability, government effectiveness and regulatory quality and security.

The *National Development Plan III*, 2020/21-2024/25 recognizes the necessity for access to justice for all through different efficient mechanisms, including ADR. The Plan highlights the particular "need to strengthen the capacity and operations of the commercial justice institutions to provide fast and effective dispute resolution in all the specialized areas and in the area of ADR". The Plan requires, as critical interventions, the strengthening of "informal justice processes" (for a people centred delivery of justice, law and order services), and posits the need to "roll out alternative dispute resolution" (as a critical reform to facilitate private sector development).

1.5. ADR Sector Situational Analysis

1.5.1. PESTEL

The Policy shall be expected to operate and act as a broader vehicle to access ADR services and, in effect, access to justice in an environment shaped by political, economic, social, technological, environmental and legal factors.

Political ❖ Political goodwill exists for the use of ADR in particular as a tool for equal access to justice and ease of dispute resolution in commercial matters. ❖ Interest of the Executive in the use of ADR to resolve disputes	**Economic** ❖ Budgetary allocations and available support to ADR sector ❖ Business sector interest in reformed ADR processes ❖ Investor interest to have an effective ADR framework
Social ❖ Readiness of various sectors of society and communities to embrace ADR forms, e.g. religious bodies and community leaders ❖ Literacy levels and capacity to engage ADR processes. ❖ Availability of many social media platforms to meet societal justice needs.	**Technological** ❖ Opportunities of increasing use of technology by parties for dispute resolution utilizing ADR forms. ❖ Legal framework on use of ICT in dispute resolution.
Environmental ❖ Ability of ADR to resolve environmental issues quicker and with less friction ❖ Ability of ADR to create environment for growth, innovation, and progress	**Legal** ❖ Presence of multifarious legislation (Acts, regulations, practice directions) to promote ADR forms. ❖ Periodic reforms to align ADR legal framework with emerging best practices.

1.5.2. SWOT

The Policy is framed by leveraging the opportunities and strengths (enablers) and addressing the threats and weaknesses (pains) that underlie ADR forms, processes, and stakeholders. A SWOT analysis is provided as follows.

Strengths	**Opportunities**

❖ ADR is much cheaper for all dispute resolution users. ❖ ADR is easily appreciated by parties as it puts them in control of process and proceedings process (e.g. choice of the seat, governing rules). Best forum for dispute can be chosen. ❖ Judiciary is embracing ADR through the Alternative Justice Systems strategy. ❖ Pro-ADR international developments, e.g., Singapore convention on mediation.	❖ Existence of the MOJCA and AG's chambers and their critical role in promoting ADR to ministries, departments and agencies (MDAs). ❖ Existence of experienced officials trained in ADR at MOJCA and AG's chambers. ❖ Presence of enabling legislation or regulatory measures to promote ADR ❖ Frees up time for AG's chambers to focus on critical legal matters.
Weaknesses ❖ In certain ADR forms, the non-binding nature of certain processes slows overall resolution time. ❖ Advocates who want to use ADR as a strategy for litigation. ❖ Lack of a uniform ADR policy to guide ADR approaches in MDAs ❖ Lack of ethical policy for ADR practitioners causing integrity concerns due to perceived non-neutrality and conflict of interest.	**Threats** ❖ Current legal framework is a patchwork of Acts, regulations, practice directions, etc. ❖ Perception by certain judges and lawyers of ADR as a threat to the court system. And will be less likely to advise parties or clients to use ADR or promote ADR in any other way. ❖ Parties' readiness or willingness to utilize ADR forms and to cooperate throughout process.

1.5.3. Stakeholder analysis

The Policy is cognizant of the ADR sector stakeholders that includes the general public (as likely to interact with and require access to the ADR services); judicial officers; court users; law society and private practitioners; justice ministry (as relevant line ministry); LDC (as legal training institution); the public prosecutor (DPP); and police and prisons, etc. The court users include the private sector, where predominantly parties seek to litigate and resolve commercial and transactional disputes.

1.6. ADR Sector Overview

Informal systems and structures of resolving disputes have existed in Uganda pre-colonial era which introduce the formal or court annexed ADR, the justice systems and mechanism were people or community centered and reflective of acceptable moral values and standards, customs, rights and privileges of members of the society. During the colonial era the community justice systems co-existed with the judicial system, however they were inferior and disregarded. Due globalization and the contemporary commerce ADR has become part of the economy and adaption to the conventional forms of ADR is important.

1.6.1. Types of ADR Mechanisms

ADR mechanisms in Uganda may be categorized in three major types, differentiated on the basis of the role played by the neutral person or third party, that is, adjudication-based, recommendation-based, and facilitation-based.

(a) Adjudication-based ADR

Under this type of ADR, the parties go through a form of decision making process or hearing by a third party neutral person and, at the end, the third neutral person makes decision. The decision is binding on the parties by consent or by operation of law. The examples include tribunals, arbitration, and adjudication.

(b) Recommendation-based ADR

Under this type of ADR, the third party neutral person does not have the power to make a binding decision for the parties; their role is to make suggestions or recommendations to the parties regarding the resolution of the dispute. The examples include conciliation and early neutral evaluation.

(c) Facilitation-based ADR

Under this type of ADR, the third party neutral person takes an active role in aiding the parties to reach a settlement.

In all these types of ADR mechanisms, the preservation of the relationship of the parties is an important consideration of the parties.

1.6.2. Utilization of ADR practice in civil disputes

(a) ADR in electoral justice

The *Parliamentary Elections (Election Petitions) Rules*, SI 141-2 (as amended) provide for alternative dispute resolution. Rule 27A in particular is a replica of Order 12, rule 1 of the Civil Procedure Rule, SI 71-1, which is to the effect that after the time for hearing of an electoral petition has been fixed but before trial commences, the court must hold a scheduling conference to sort out points of agreement and disagreement and the possibility of settlement of the case by *alternative dispute resolution.*

Under Rule 27C in the event parties disagree on all issues of the dispute but the court is of the view that the case has a potential for settlement, the court may order ADR before a neutral person certified by CADER and appointed in consultation with the parties, and such person appointed will facilitate mediation or arbitrate or through any other form of ADR facilitate the settlement of the dispute.

Further the Rules provide a timeline within which ADR should be completed and pursuant to Rule 27D, the ADR shall be completed within fourteen (14) days after the order made by court, however the time may be extended for good cause for a period not exceeding seven (7) days at the request of the parties. Once the parties agree to the issues in the dispute referred to ADR, the neutral person is required to reduce the agreement in writing, which agreement shall be signed by all parties filed in court as a consent judgment pursuant to rule 27E.

In the event parties fail to agree, the neutral person shall record the issues on which the parties disagree and refer the issues back to the court as per Rule 27. All ADR situations the neutral person is required to file a report on the ADR with the Court within seven (7) days after the completion of mediation as per Rule 27(1).

The parties are not charged any filing fees in respect for the neutral person, however the costs arising out of the ADR process shall abide the decision of the court in the petition.

Further pursuant to Rule 27L, any party to election petition may at any time before scheduling conference or during the trial, apply to the court for reference of the dispute or

any issue therefrom to ADR. And if the court orders that the matter be referred to ADR then same procedure similar to ADR order by court will apply with the necessary modifications.

(b) ADR in the commercial sector

Arbitration under the *Arbitration and Conciliation Act* is the foremost mechanism of ADR utilized under the commercial sector. Further, mediation was piloted in commercial disputes by the *Commercial Court Division (Mediation Pilot Project) Practice Direction,* 2003. Thereafter, mediation has been a mainstay of the sector's division of the Court under the *Judicature (Commercial Court Division) (Mediation) Rules*, 2007. The *Investment Code Act*, 2019 provide for ADR in commercial disputes between the government and investors. The first option in such disputes is negotiation or conciliation, and it fails, then arbitration will be recommended.

(c) ADR in land disputes

The *Land Act*, Cap 227 (as amended) establishes the District Land Tribunal, which has powers to handle land disputes, the act grants an opportunity to parties to explore ADR by allowing the traditional authorities to determine disputes over customary tenure.

In the same spirit, the Act provides that parties may, at the commencement of a case or at any time during the hearing of the case, explore mediation and once such an opinion has been given, the land tribunal may adjourn the case for such period as it considers fit to enable the parties, to use the traditional authorities or the mediator to resolve the dispute.

The *Land Act* also provides for customary dispute settlement and mediation under sections 88 and 89.

(d) ADR in civil matters

The *Civil Procedure Act*, Cap 71 and the *Civil Procedure Rules*, SI 71-1 (Order 12 rule 1 as way of standard procedure) encourage ADR through scheduling conference which is a mandatory step in civil litigation, where the parties are required to sort out issues of agreement and disagreement and the possibility of ADR.

And where the parties do not reach an agreement, the court may, if it is of the view that the case has a good potential for settlement, order alternative dispute resolution before a member of the bar or the bench, named by the Court.

(e) ADR in family law

ADR in the resolution of family disputes has followed procedures under the court-annexed mediation under the *Judicature (Mediation) Rules*, 2013. This has been the practice at the Family Division of the High Court as well as the High Court circuits in handling family-related disputes.

(f) ADR in labour and employment

The *Employment Act*, 2006 provide for the office of a labour officer who is vested with powers to hear, and to settle by conciliation or mediation a complaint.

The *Labour Disputes (Arbitration and Settlement) Act,* 2006 provide for reference of dispute to a labour officer as the forum for first instance, the role of the labour officer is to settle trade disputes by use of voluntary procedures, conciliation and mediation and act as conciliator or mediator in a labour dispute.

Once a dispute is reported to the labour officer, the labour officer is required within two weeks to conciliate and resolve the dispute, appoint a conciliator to conciliate the parties to

the dispute or refer the dispute back to the parties with comments and proposal of the terms upon which a settlement may be negotiated. The labour officer will only refer the matter to the Industrial Court if the dispute has not been resolved or if within eight (8) weeks from the time of report the labour officer has not referred the matter to Industrial Court, any of the parties may refer the matter.

The Act also provides, under section 6, for the reference to a conciliation and arbitration agreement by a labour office as a basis for resolving a labour dispute.

(g) ADR in taxation matters

The *Tax Procedures Code (Alternative Dispute Resolution Procedure) Regulations,* SI No 28/2023 provide for ADR and procedures thereunder for a party that which to explore ADR. Under the Regulations, only recently made on March 6, 2023, ADR is voluntary and there are only two methods for ADR in taxation matters, that is, conciliation and negotiation, as provided under Regulation 5(1)(a) and (b).

Under the Regulations, a tax payer who is dissatisfied with a tax decision of the Commissioner, is required to apply to the Commissioner for resolution of the dispute within seven (7) days from the date of the tax decision as per Regulation 4(1). In the event that the ADR is commenced under taxation, the time within which the taxpayer is required to file an application with the Tax Appeals Tribunal or a suit with Court is not affected by ADR.

The Regulations provides for disputes eligible and for ADR and provide the basis upon which an application can be rejected.

Where the Commissioner and the taxpayer agree to settle the tax dispute using ADR, the issues agreed upon shall be set out in a settlement agreement which shall be signed by the Commissioner and the tax payer and such settlement shall be binding against the Commissioner or the tax payer.

1.6.3. Utilization of ADR practice in criminal justice

Section 160 of the Magistrate Courts Act, Cap 16 encourages magistrate courts to promote reconciliation and encourage and facilitate the settlement of cases in an amicable way for assault cases or other offences of personal or private nature and not felonies.

Settlements in criminal justice have been encouraged and promoted by courts and the Director of Public Prosecutions through the *Judicature (Plea Bargain) Rules*, 2016, in plea bargaining, an accused person agrees to plead guilty to the charges and the prosecution in exchange drops one or more charges, reduce a charge to a less serious offense or recommend a particular. In turn, this has promoted reconciliation and, in effect ADR, in the criminal justice system.

As a way of fostering reconciliation between disputing or warring parties, traditional justice has also been adopted into the criminal justice system, e.g., in the case of *Kanyamunyu Mathew v Uganda,* Misc. Appln No 151/2020 [2020] UGHCCRD 144, the High Court in arriving to its decision also considered the *mato oput* which a ritual performed among the Acholi people as a way to bring reconciliation and justice by the guilty acknowledging responsibility, the guilty repenting, the guilty asking for forgiveness, the guilty paying for compensation, and, finally, the guilty being reconciled with the victim's family through sharing the bitter drink *mato oput.* The bitterness of the drink symbolizes the psychological bitterness that existed in the minds and consciousness of the people in the conflict.

1.7. Institutional Framework in ADR

Uganda's institutional framework in ADR is private and public. On the one hand, public institutions are established under the law, such as CADER while, on its part, the Judiciary houses the court-annexed mediation. Further, there are constitutional commissions and other institutional bodies that are vested with ADR mandates by law.

Private institutions of ADR include private-sector driven institutions, e.g. ICAMEK, as well as non-governmental organisations, religious organisations, community-based bodies (e.g. as local councils, councils of elders, etc.)

1.7.1. Mediation

As the key justice sector institution, the Judiciary provides the institutional framework for court-connected mediation through its court-annexed mediation program. The mediation is anchored by the *Judicature (Commercial Court Division) (Mediation) Rules*, 2007 and the *Judicature (Mediation) Rules,* 2013. The court-annexed mediation has been deferred to by the Civil Division, Commercial Division, and Family Division in handling disputes on civil, commercial, and family matters under their dockets. It has also been used by High Court circuits in handling similar matters.

However, there is no ADR intervention beyond court-annexed mediation to involve other mediation spaces in order to enable the resolution of disputes across the broad spectrum of society.

Many other public or semi-autonomous institutions have been given mandates to utilize mediation as illustrated in the analysis of the use of ADR in different sectors (1.6 above)—these include land tribunals, labour officers, traditional leaders, etc.

1.7.2. Arbitration

In Uganda, arbitration is principally governed by the *Arbitration and Conciliation Act*, Cap 4. The Act establishes CADER and as the supervising institutional body (as "appointing authority") for arbitration in the country. CADER's role as appointing authority is currently in limbo since 2019 in the wake of a number of decisions by High Court and Constitutional Court in *International Development Consultants Ltd. v Jimmy Muyanja & Others*, Misc. Cause No 133/2018 and *Centre for Arbitration and Dispute Resolution & Another v Attorney General*, Constitutional Petition No 11/2019 respectively. In the IDC case, the High Court addressed the power to appoint an arbitrator under Cap. 4 as vested exclusively in the Second Respondent (Attorney General) or an "appointing authority" and held that the First Respondent (as the Executive Director of CADER) was not an "appointing authority" within the meaning of section 2 of the Act and in the context of sections 11(3)-(4), 67(1), 68(a), 69 and 70(1)-(2) of the Act.

In 2020, ICAMEK, as a private sector-driven ADR centre, was designated as an "appointing authority" under the *Arbitration and Conciliation (Appointment of International Centre for Arbitration and Mediation in Kampala as an Appointing Authority) Notice*, 2020. Further, there are other public and private institutions, including the Medical Arbitrations Board, the Tax Appeal Tribunal, etc.

The prevailing business practice dictates that commercial contracts be structured to contain express clauses referring any future disputed to arbitration. Once a contract or agreement provide for an arbitration clause, a party who wishes to commence a dispute resolution is precluded from filing a civil suit. In the event, a party commences civil suit arising out of a contract with an arbitration clause, the court will, upon application the other party, refer the

matter to arbitration under the *Arbitration and Conciliation Act.* This is evident in recent decisions, such as *Vantage Mezzanine Fund II Partnership v. Simba Properties Investments Co Ltd & Another* [2021] UGCommC 23.

1.7.3. Conciliation

In light of the analysis of the use of ADR in different sectors (1.6 above)—public and private institutions or bodies are central to *conciliation* as an ADR process. These include labour officers (under the *Labour Disputes (Arbitration and Settlement) Act,* 2006), CADER and ICAMEK (conciliation under Cap 4), and tax commissioners (under the recently issued *Tax Procedures Code (ADR Procedure) Regulations,* 2023).

The *Arbitration and Conciliation Act* specifically provides for the procedure of commencing conciliation. This is by way of writing and inviting the adverse party initiating a conciliation and, where the adverse party accepts, a conciliator is appointed. Under the Act, in executing their role, conciliators must adhere to principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligation of the parties, usages of the trade concerned and the circumstances surrounding the dispute including any previous business practices between the parties as per section 53 of the Act.

1.7.4. Alternative Justice Systems

In most rural communities in Uganda, there exist various institutions established through traditional custom to maintain order, peace, and community cohesion. These institutions include community councils of elders, clan elders, age mate group panels, matriarchs, and patriarchs of extended households. The most established and widely used of these are councils of elders. A core responsibility of these institutions is dispute resolution.

The Judiciary, through the development of an Alternative Justice System (AJS) strategy, aims to harness the linkages between the formal justice system (of the courts) and the informal justice systems (of communities). The envisaged role of community leaders, as mediators, is to resolve the community-related customary disputes. The key institutional actors shall be public (in the judicial courts) and community (and, in many cases, private disputants).

1.7.5. Civil Society Organisations

Civil Society Organisations (CSOs) are key players in the facilitation of access to justice and dispute resolution in Uganda, especially in rural areas. The work of such organisations within the ambits of fostering dispute resolution and peace in areas affected by the war in Northern Uganda cannot be ignored, for example, International Center for Transitional Justice Uganda, and the Justice and Reconciliation Project (JRP). This extends to the ADR work by legal aid bodies, such as Uganda Women Lawyers' Association (FIDA-Uganda).

The development of an effective ADR policy in Uganda involves close collaboration by the Judiciary with the CSOs countrywide.

1.7.6. Faith based organisations

Faith based organisations (FBOs) remain instrumental in dispute resolution in Uganda, and have equally helped to mediate conflicts and promote peacebuilding at grassroots levels. Notable examples include, among others, the Uganda Joint Christian Council and the Acholi Religious Leaders Peace Initiative (ARLPI) (serving as an umbrella organisation for major religious denominations in Northern Uganda).

1.7.7. Local government

This encompasses local leaders, including traditional ones, as well as local council leaders who just as CSOs and FBOs facilitate dispute resolution at grassroots level. A key actor that can drive ADR at local and grassroots level are the local council (LC) courts. In adoption of a national ADR Policy, this would also call for further collaboration and regular trainings of the local leaders and actors in the art of dispute resolution at such levels.

PART II: THE POLICY PROBLEM

2.1. Introduction

In spite of the noted legislative and institutional frameworks in the ADR sector in Uganda, certain challenges, gaps, and needs present dysfunctional conditions that undermine the full realization of the potential of ADR in the country and inhibit its further development.

2.2. Conceptual and definitional challenges and unclear scope of ADR

2.2.1. Conceptual and definitional problems

The conceptual issues in ADR have to do with the definitions of key ADR terms such as ADR itself, its component terms of 'Alternative', 'Dispute' and 'Resolution' and the key terminologies used in ADR.

Notably, there is inadequate articulation of the scope of ADR is also an important conceptual gap, which undermines a holistic appreciation of the ambit of ADR. The examples include, for instance:

(a) ADR is often narrowly viewed as consisting only certain specific commonly known areas of practice such as arbitration and mediation.

For instance, in mediation, it is limited in terms of being looked at from the perspective of court-annexed mediation. This means its use is always ignited after a dispute has been filed in court.

(b) There is inadequate clarity as to what conceptions of justice are applied in ADR—whether it is the legal conception based on clearly stipulated rules, principles and individual rights, or other forms such as social and distributive justice which are based on distribution of wealth and opportunity and on communal interests. ADR as applied to the disputing parties in the *commercial sector* will certainly be different from its application in a *customary land setting*.

(c) Further, there is no resource in the sector such as a 'glossary of terms' to guide the ADR practitioners, users and institutional actors on common terminologies used in ADR for uniformity of understanding and usage.

The conceptual and definitional challenges are exacerbated by a current ADR sector that is characterized by a patchwork of the ADR legal and institutional frameworks.

2.2.2. Unclear scope of ADR

There is inadequate articulation of the scope of ADR. This is also an important conceptual gap, which undermines a holistic appreciation of the ambit of ADR.

ADR is also wrongly assumed to be a service mostly offered in *civil matters*—although in dispute resolution practice, there is awareness of its use in the commercial, land and family disputes (as a part of *civil litigation*)—and mostly by lawyers. This situation undermines the

understanding of ADR for users and potential users, policy-makers and practitioners (e.g., in community arbitration) and hence limiting its utility towards the goal of access to justice.

2.2.3. Jurisdictional matters

There is lack of clarity of the jurisdictional limits of ADR. This undermine the development of ADR. For instance, there is a lack of consensus on the extent to which criminal justice issues can be dispensed through ADR and what ADR forum, with the underlying concern that criminal justice is primarily with the public good of security, order, and lawfulness and not restoration or reconciliation which are the key concerns in most types of ADR in criminal matters. Additionally, while court-annexed mediation has been applied in family matters, it is unclear whether arbitration, as an ADR forum, can be suited for such disputes—in several other countries, family disputes are, by law, identified as non-arbitrable.

2.3. Legal gaps and challenges

Several challenges exist in the ADR sector and, for a successful implementation of ADR in the country, the challenges will need to be addressed. Some of the challenges include the following:

2.3.1. Inadequate implementation of existing laws

As noted, there is a patchwork of several pieces of legislation that provide for ADR in their areas of focus, that is, among others, the *Arbitration and Conciliation Act*, the *Judicature (Mediation) Rules*, 2013, the *Civil Procedure Act* Cap 71 and *Civil Procedure Rules* SI 71-1 (as amended), the Land Act, Cap 227, the *Employment Act*, 2006 and *Labour Disputes (Arbitration and Settlement) Act*, 2006, the *Investment Code Act*, 2019, and the recent *Tax Procedures Code (ADR Procedure) Regulations*, 2023, there has however been inadequate leveraging of the varied legislation for effective and coherent resolution of disputes through ADR.

2.3.2. Lack of statutory qualification and immunity for ADR practitioners

There is at present no statutory qualification for arbitrators, mediators, conciliators or third party neutrals, nor is there a single accreditation scheme certifying and evaluating the services they offer. Further, the ADR practitioners do not have immunity while conducting their roles. This is crucially important since they are expected to perform roles that support the courts, as a formal justice system, or as ADR practitioners in informal justice systems, with synergies for the resolution of disputes in the courts.

2.3.3. Inadequate capacity of ADR practitioners

The ADR sector still grapples with issues surrounding capacity-building, with just a few ADR practitioners, in particular, those who are accredited in the respective forms of ADR. This is likely tied to the fact that, with inadequate institutional capacity, the chance to have more accredited practitioners in the country is greatly affected.

2.3.4. Lack of broad sectoral framework for ADR

The existing laws are progressive, although not extensive in providing for ADR in Uganda. Regarding the use of arbitration, this is provided for under the *Arbitration and Conciliation Act* Cap 4. However, in light of changing global dynamics, the same legislation requires a number of amendments. Regarding mediation, there is no substantive legislation on it as an ADR mechanism, for the *Judicature (Mediation) Rules*, 2013, crafted under powers granted by the *Judicature Act*. As noted, this is limited to court-annexed mediation.

2.3.5. Inadequate and ad hoc *institutional development in the ADR sector*

ADR institutional development has been *ad hoc* and unstructured. Arbitration is by an Act of Parliament (expected to be anchored by CADER). Mediation has by and large been courts driven, or as are pre-cursor to court litigation (e.g. labour officers).

Overall, there is a lack of an oversight institution in the ADR sector, and this a situation that occasions fragmented growth, and the lack of common standards, coordination and effective regulation and governance. Importantly, there are currently very few well-established institutions that are offering ADR services in Uganda and, more particularly, offering training or accreditation services, with a notable example in ICAMEK. The "legal limbo" of CADER, as an appointing authority, and the key institution under the *Arbitration and Conciliation Act,* only worsens the current situation.

PART III: CHALLENGES IN ADR MECHANISMS

3.1. Challenges in Arbitration

The challenges in arbitration, as an ADR form, include the following:

(a) **Challenging of arbitrators and lack of immunity:** Any arbitrator may be challenged if circumstance exist that give rise to justifiable doubts as to the arbitrator's impartiality or independence, and arbitrators do not have immunity, that means a party to the proceedings may bring an action against them arising from their handling of a dispute.

(b) **Rising costs of arbitration:** With few ADR practitioners comes a generally high cost in fees for arbitration, and this has had an impact on litigants shying away from considering arbitration as a mode of dispute settlement.

(c) **Need for amendment of the *Arbitration and Conciliation Act***: The current Act, Cap. 4 urgently needs amendment—from provision of CADER as the appointing authority despite its current state, to lack of provision of arbitrators' immunity, all the way to the non-provision of e-filings and e-proceedings, which are some of the progressive steps that have been taken in other jurisdictions.

(d) **Lack of utilization of arbitration by government MDAs,** including the Ministry of Justice.

The legal and regulatory reform can extend to addressing:

(i) Absence or lack in arbitration practice of a regulatory framework or standardized training curriculum or code of conduct and an enforcement mechanism.

(ii) Attendant operations of ADR institutions with little coordination or collaboration and without any accountability structures.

(iii) Inadequate awareness about arbitration in the country.

(iv) Inadequate number of qualified arbitrators or arbitration practitioners.

3.2. Challenges in Mediation

Although mediation has been the fastest growing and most used ADR practice in Uganda, it has not been without its share of challenges that include:

(a) **Lack of legal framework regarding mediation:** A comprehensive legal framework on mediation in Uganda would definitely contribute to its success with clear guidelines on court-appointed and private mediators, as well as threshold of relevant fees, which is a concern that remains contentious today.

(b) **Inadequacy of accredited mediators:** Capacity remains a challenge when it comes to private and court-appointed mediators, and this calls for the development of more institutions to address the knowledge-gap and practice-gap.

The mediation practice has inadequate numbers of trained and training personnel and specialist mediation expertise in specialized dispute areas, e.g., family and commercial matters. This situation of mediation practice, as an ADR form, makes the requirement for a *framework legislation* imperative, as this would guide the growth of this ADR form, and set the framework for standards and capacity development.

(c) **Recognition and enforcement of mediation agreements:** The fast tracking of the Singapore Convention has potential to change this and facilitate more business and international transactions through Uganda as a mediation destination.

The Singapore Convention is intended to serve as an efficient and harmonized framework for cross-border enforcement of settlement agreements resulting from mediation.

3.3. Challenges in Negotiation

The main challenge faced by negotiation, as an ADR form, is the **inadequacy of skilled negotiators.** This is in terms of capacity building and actual knowledge of institutions where litigants can access such services in Uganda.

3.4. Challenges in Conciliation

The main challenge faced by conciliation, in spite of being situated as an ADR form in legal frameworks, is **public unawareness**. With limited usage in Uganda, there is inadequate documentation on the widespread practice of conciliation as an ADR form. This is an ADR form that could be well-developed with greater public awareness and sensitization, capacity-building of conciliation practitioners, even up to the grassroots levels, and enable it feed into the informal justice system.

3.5. Challenges with Alternative Justice System

The challenge faced by AJS, as a means to leverage ADR in informal justice system and create linkages and synergies with the formal justice system, has been the **lack of a policy and legal framework** in Uganda. There is need for an effective policy and legal framework on AJS in Uganda, with a comparative study of jurisdictions like Kenya that have registered success with communities taking active roles in dispute resolution and justice distribution. Such an AJS needs to be appreciated by not only the legal professionals, but general public in Uganda to support the formal justice system. As noted, in 1.6.4., the Judiciary has developed an AJS strategy, as part of ADR reforms in the justice system, and the strategy shall support the full implementation of the AJS in the justice system.

3.6. Linkage and coordination challenges

There are few institutions currently exist that are advancing use of ADR mechanisms in Uganda and providing solutions to the pressing issues of capacity-building. That said, in the future, there shall be need for coordination amongst the many budding institutions to avoid overlaps that can lead to eventual inefficiency of the system. There will also be even greater need for coordination amongst such institutions, the Judiciary, and professional bodies that seek to empower persons with the knowledge on ADR and its usage.

3.7. Recognition and enforcement challenges

Traditional court recognition of arbitral awards turns them into court decrees and increases their enforceability. A State being party to the 1958 New York Convention on recognition of foreign arbitral awards, as Uganda is (and enforcement is envisaged under Part III of Cap. 4), helps a long way on enforcement.

However, there is no legal framework for recognition and enforcement of mediation settlement agreements. It is therefore imperative that mechanisms for recognition, enforcement, adoption or registration of settlement agreements be adopted. This give more legitimacy to the process when parties know that their settlement will be registered or recognized and may encourage them to take the process more seriously. This is the import of the 2018 Singapore Convention (on international settlement agreements resulting from mediation).

Further, the ADR legal framework should provide for, among others:

(a) Minimization of delays in court process where timeliness and confidentiality may be compromised where court adoption is required by law in respect of arbitral awards (and mediation settlements). The delays are often caused by unnecessary application of civil procedure rules on arbitration awards (and mediation settlements) in adoption processes.

(b) Custom made linkage between courts and ADR mechanisms, e.g. special registries for arbitral awards and mediation settlements, system of coding of names and details to preserve confidentiality, etc.

3.8. Technological gaps

The advancement of ADR in jurisdictions, such as the United Kingdom, Hong Kong and Singapore can also be attributed to progression in technology which has not only provided convenience but also reduced costs of travel etc. The advancement of ADR in Uganda also calls for related efforts to deal with the technology gaps in Uganda. It is therefore imperative that there is in-tandem development of ICT capacity in the ADR sector. ADR is already being transformed by technology, with some forms, such as mediation, being conducted electronically in the commercial sector, but also in the family and other sectors. There shall be the need to tap into and operationalize tech-innovation in justice forums, and to address such reforms under the existing legislation.

3.9. ADR sector regulation and governance gaps

While over the years, arbitration and mediation may have developed standards of practice, there is every likelihood they are not uniform, hence creating confusion and challenging quality control. Further, there is no framework of principles guiding development of national standards and no regulatory body to manage disciplinary processes and enforce standards for ADR institutions and practitioners.

3.10. Inadequate and un-uniform public awareness and understanding of ADR

As noted in 2.1.1, there is a lack of common and consistent use of ADR terms, but there is also inadequate understanding of ADR, its forms, its benefits *vis-à-vis* the courts, when its different forms may be appropriate, standards to be expected, and where ADR services may be accessed across the country. This fundamentally affects the uptake of ADR services.

PART IV: POLICY STRATEGIC FRAMEWORK

4.1. Rationale for the Policy

The rationalization and logic for the development of this Policy is based on the following facts and realities:

(a) A 2016 justice needs' report revealed that the courts and lawyers are marginal to the experience of the day to day justice needs of Ugandans, with less than 5% of the dispute resolution taking place in court and less than 1% of all cases have a lawyer involved. The report revealed that the majority of Ugandans rely on informal justice process, and recommended the adoption of alternative dispute resolution (ADR) mechanisms as means of resolving disputes in a fair manner.

In that regard, court adjudication processes (and their adversarial approach) is alien to the community-centric culture that evidently regards ADR to be at the centre—rather than the periphery—of resolving their disputes.

(b) The current ADR sector is riddled with conceptual problems, lack of clarity in scope of ADR, and a patchwork of the ADR legal framework.

(c) An efficient ADR service in the country, especially serving the commercial sector, is a catalyst of commercial activity, and foreign direct investment. Presently, over UGX 8b/= is locked up in commercial disputes in the Commercial Division of the High Court (and this is only in a single division). ADR could aid the speedy resolution of such disputes in non-adversarial, business relationships' preserving settings.

(d) Given the non-adversarial and reconciliatory approach of most of its processes, ADR can be a very useful tool for the promotion of peace and social cohesion.

(e) ADR has been proven to complement and assist in de-clogging the courts, and this should relieve the courts of hundreds of cases that would have unnecessarily taken up time and resources. The Judiciary's AJS strategy is based on a similar rationalization.

(f) ADR is a self-financing apparatus of justice. The neutral third parties involved in ADR forms are not state employees, but independent private practitioners paid by users of their services. Increased use of ADR therefore in the long run will reduce the strain on the Consolidated Fund. From a cost-benefit analysis perspective, it is instructive that the Government invests in supporting the growth of ADR.

(g) The need for promotion of ADR is anchored in the Constitution, national legislation, ratified human rights treaty instruments, SDG commitments, Vision 2040, and the Judiciary Strategic Plan V. Notably, a people-centred service delivery, that has been the hallmark of the JLOS infrastructure for equitable access to justice, is expected to underpin the Judiciary's *Transformation Agenda*, that is premised on a rallying-call of **"justice for all".**

It is within this context that the development of the Policy is imperative with the goal of enhancing the development of ADR as an apparatus of justice to increase its effectiveness, availability, and accessibility to the people of Uganda.

4.2. Policy vision and mission

The **proposed** vision of the Policy is:

> *To foster a country where ADR is no longer the exception, but it is the rule as regards the preferred mode of dispute resolution.*

The **proposed** mission of the Policy is:

> *To position ADR as an effective and efficient enabler, ensuring access to justice for all Ugandans.*

4.3. Policy objectives

The objectives of the Policy are:

(a) To institutionalize ADR as a mechanism for the resolution of disputes in Uganda.

(b) To increase efficiency in the ADR sector by enhancing coordination, collaboration, and linkage within the sector, and between ADR actors and the multifaceted justice systems.

(c) To strengthen the legal and institutional frameworks of the ADR sector in Uganda, including the scope of the different ADR forms.

(d) To streamline and enhance the quality and innovation in ADR practice in Uganda, through research, knowledge development, community of practice, and leveraging of ICT.

(e) To strengthen sector governance, regulation, and capacity building in the ADR sector, and ensure its growth according to the needs and contemporary standards.

(f) To promote public awareness and encourage the use of ADR in Uganda.

4.4. Guiding principles

The formulation and implementation of the Policy is guided by the following principles:

(a) Disputes are about individual (and their claims, rights, etc.) and therefore resolution requires agreement between the individuals.

(b) ADR is underscored by a constitutional rider (under Article 126(1) the Constitution) to conform to the law and with the values, norms and aspirations of the people. The ADR policy is framed by incorporation of aspects of Uganda's cultural and customary values that are consistent with fundamental rights and freedoms.

(c) ADR is underscored by another constitutional rider (under Article 126(2)(d) of the Constitution) to promote reconciliation between the parties in adjudication of disputes.

(d) ADR is based on finding a neutral person who will assist the parties freely resolve their dispute in order to reach an agreed settlement.

4.5. Policy Approach

4.5.1. Human rights approach

The Policy is directed towards the promotion and protection of human rights, based on the fundamental international human rights principles such participation, accountability, non-discrimination and equality, empowerment, and legality.

4.5.2. Gender and equality considerations

The Policy considers gender and equality mainstreaming as paramount in its development and implementation. The Policy recommends the development of a gender and equality strategy for the ADR in all its forms and activities.

4.5.3. Opportunities

The Policy is underscored by the opportunities offered by ADR, including:

(a) ADR shall promote the expeditious dispensation of justice, and therefore reducing the time parties are engaged in a legal dispute.

(b) ADR shall complement and contribute to the decongesting the judicial system through the implementation of the AJS strategy.

(c) ADR shall promote reconciliation and preserving business and familial relations.

(d) ADR shall promote stakeholder engagement and participation in ADR emerging issues.

(e) ADR shall embrace use of ICT to enhance its efficiency, accessibility, and reduction of attendant costs.

(f) ADR shall promote and enhance the access to justice for all.

(g) ADR shall save the government resources locked up in formal dispute resolution system and position Uganda as an alternative investment destination.

4.5.4. Risks and assumptions

The Policy is framed against possible risks and assumptions.

The risks that may undermine the implementation of this policy include;

(a) Resistance from legal practitioners and other stakeholders who prefer litigation to ADR.

(b) Inadequate resources to implement the Policy.

(c) The fear of ADR to oust the jurisdiction of courts (although this has been addressed by now accepted principles on "ouster of courts' jurisdiction and by the AJS strategy).

(d) The fear that ADR would deter adherence to the rule of law and cause confusion in the justice system, especially in the criminal justice sector.

The main assumptions of the Policy are:

(a) There shall be availability of adequate resources for its implementation.

(b) Stakeholders and ADR users shall maintain momentum for reform agenda envisaged by the Policy.

4.6. Policy Statements

4.6.1. Definitions of key ADR terms

The Policy adopts the following meanings for key ADR terms:

"Accreditation" is a process whereby "an independent agency both defines and monitors the standards of those institutions which voluntarily choose to participate in the scheme.

"Alternative Dispute Resolution"; includes any process or procedure, other than an adjudication by a presiding judge or magistrate, in which a neutral third party participates to assist in the resolution of issues in controversy, through processes such as early arbitration, mediation or conciliation.

"ADR practitioner" ' refers to a person offering ADR services to the public, and who is trained by accredited institutions to offer services in a specific area of ADR practice; is certified and accredited by the relevant accrediting institutions.

"Arbitration" refers to a method of alternative dispute resolution whereby a dispute, with the consent of all the parties, is submitted to a neutral person or group for a decision, usually including full evidentiary hearing and presentations by attorneys for the parties.

"**Conciliation**" refers to a method of ADR whereby a third party, who is usually but not necessarily neutral, meets with the parties and assist them to find a way to settle their dispute The third party is known as conciliator and his or her role is to ensure that the parties find a solution but he or she does not have power to enforce it.

"Mediation" refers to the consensual, confidential process in which the disputants submit to the facilitation of a neutral third party who assists them to reach a negotiated solution. The neutral's role is to set up the process, and to facilitate the parties' communication and decision making;

"Negotiation'' refers to the dispute resolution mechanism where parties have complete autonomy over the forum, the process, and the outcome, and often reach a mutually acceptable decision without assistance from third parties;

4.6.2. Scope of ADR

The Policy takes an inclusive approach to the scope of ADR encompass:

(a) Private and public disputes.

(b) Civil matters.

(c) Criminal matters in light of various ADR practices in criminal jurisdictions globally.

(d) All concepts and typologies of ADR practices, processes, and services, normally found in ADR practice globally.

(e) Matters that could be considered justiciable and those not justiciable.

(f) Instances where no definitive dispute has crystallised but where parties may seek clarity in one form or another or are taking dispute pre-emptive action.

(g) New and innovative forms of ADR such as Online Dispute Resolution (ODR).

~~*4.6.3. Strengthening the institutional framework for ADR*~~

~~The ADR sector consist of individuals, and institutions within and outside the formal and informal system of justice.~~

~~The institutions that can practice ADR include:~~

~~(a) Court annexed centers (the Judiciary ADR center).~~

~~(b) Chamber of commerce and industry.~~

~~(c) Uganda Law Society (ULS).~~

~~(d) Industry groups.~~

~~(e) Private sector enterprises.~~

~~(f) Civil society groups, e.g. NGOs, CSOs.~~

~~The individuals that practice ADR include:~~

~~(a) Judges (and other judicial officers, e.g. Registrars).~~

~~(b) Specially trained practitioners (as arbitrators, mediators, and conciliators).~~

~~(c) Elders, religious or other traditional leaders recognized by the law and community.~~

~~(d) Labour officers.~~

4.6.4. The oversight ADR Body and Practice Area Committees

(i) National ADR Council

There shall be established a National ADR Council which shall be the oversight body of the ADR sector in the country. The National ADR Council shall be housed in the Ministry of Justice and Constitutional Affairs.

The primary role of the National ADR Council shall be to oversee the implementation and monitoring of the Policy, and its functions shall include:

(a) Promote the public understanding of ADR forms as tools for dispute resolution.

(b) Promote further development of the legal and institutional frameworks supporting the ADR sector and its practice areas.

(c) Strengthen efficiency in the ADR sector by enhancing and strengthening coordination, collaboration, and linkage within the sector, and between the sector and the formal and informal justice system.

(d) Enhance the quality, availability and accessibility of ADR services by strengthening sector governance and regulation.

(e) Promote and engage in capacity building for the ADR sector, including training.

(f) Strengthen different ADR forms and practice in all sectors of the country.

(g) Promote and inculcate the culture of ADR and increase public confidence and adoption of ADR as the preferred mode of dispute resolution in the country

(h) Strengthen the ADR sector through research, knowledge development, community of practice, and leveraging of ICT.

(i) Establish and provide oversight over Practice Area Committees and provide advisory over mechanisms for ADR established by law within other state agencies, except those established under or within the Judiciary.

The National ADR Council (and its functions) shall be established under the law.

(ii) Practice Area Committees

The Policy shall be anchored by Practice Area Committees (PACs) that reflect the different ADR forms and disciplines which operate as autonomous practices and often interlink as hybrids with each other. The PACs shall be established by the national ADR Council for:

(a) ADR forms, i.e. arbitration, mediation, adjudication, and conciliation.

(b) Judiciary AJS programs.

(c) Other state institutions engaged in ADR, e.g., tribunals.

(d) Non-state actors, e.g., private sector institutions, CSOs, and other emerging areas of practice as it shall determine to be necessary for coordinated development and growth of the sector.

The membership to the PACs will comprise of individual practitioners or practitioners from representative institutions in the respective practice area to be nominated and organized as determined by the national ADR Council.

The functions of the PACs shall include:

(a) Enhance the quality of ADR services in areas of practice, through the development and enforcement of tools of regulation and governance including, among others:
    (i) codes of conduct.
    (ii) standard operating procedures
    (iii) remuneration schedules
    (iv) training curriculums and certification and accreditation mechanisms, including CLE and CPD programs.
(b) Promote public awareness of the ADR practice and service.
(c) Support the National ADR Council it in its oversight functions.
(d) Promote coordination and collaboration with other practice areas and with the court system.
(e) Promote policy and legislative development in their areas of practice in alignment with the national ADR Policy.
(f) Promote knowledge development and the growth of a community of practice of the ADR area of practice.

4.6.5. ADR Centers

What is an ADR Centre? How established and approved? (CADER/ICAMEK)

The major functions of ADR centers, to be established under direction of the national ADR Council is to be responsible for administration, establish and facilitate the development and capacity building of ADR centres across the country.

The functions of the Centres shall be to:

(a) Training as per approved curricula.
(b)
(c) Provide information on all ADR forms and processes to the public.
(d) Provide the public with lists of certified ADR practitioners nearest to them.
(e) Offer, where possible, a sitting facility for ADR sessions for members of the public.
(f) Provide a platform for receipt of feedback and complaints from the public related to ADR services.
(g) Serve as collection points for data on dissemination of information on ADR, access and usage of ADR services, and proposals for reform.

4.6.6. Support to implementation of the AJS strategy

The Policy recognizes the central place and position of the Judiciary in the administration of Justice, as provided under the Constitution and law. ADR (and, by extension, AJS) shall operate on usage of its forms and practice are inextricably linked to judicial processes of the courts as the main dispensers of justice.

The Policy is therefore to be anchored, from the Judiciary, by the Judiciary AJS Strategy and a Judiciary ADR Centre (or Registry) established within the courts' system. The ADR Center (or Registry) shall have the functions as:

(a) Expand the court-annexed mediation program and promote other court-connected ADR forms, into a fully-fledged ADR Registry (and sub-Registries).
(b) Promote ADR by building capacity of judges and other judicial officers.
(c) Provide information on ADR forms and processes to members of the public.

(d) Provide members of the public with lists of certified ADR practitioners nearest to them.

(e) Offer, where possible, a sitting facility for ADR sessions for members of the public.

(f) Provide a platform for receipt of feedback and complaints from the public related to court connected ADR services

(g) Serve as collection points for data on dissemination of information on ADR, access and usage of ADR services and suggestions for improvements.

(h) Serve as the judiciary focal point for linkage with non-court connected ADR system and the National ADR Council.

(i) Serve as community justice centre, in supporting communities and persons in resolving disputes.

The Judiciary may consider review and upscaling the role of the current Justice Centres.

4.6.7. Support to customary dispute resolution

The Policy additionally recognizes the central place and position of customary institutions and structures in dispute resolution in many parts of the country. The Policy should therefore aim to ensure that traditional institutions, where required, are involved in the process of dispute resolution through their well-established mechanisms.

The customary dispute resolution mechanisms shall be guided by, among others:

(a) Require the submission of customary disputes in the first instance to the customary institutions. This would require parties being willing to submit themselves to authority of the customary institution before assumption of jurisdiction over the dispute by the customary institution. Jurisdiction is exercisable only by submission.

(b) Resolution of disputes by customary institutions shall be premised on the principle of *fair hearing*, which shall be a cornerstone of the dispute resolution process.

(c) Recognition of *judicial* role of customary institutions in handling customary disputes.

(d) Necessity to undertake a restatement of customary law of Uganda (or of its various communities) to guide ADR processes. Of particular interest is the law in areas such as marriage, divorce, inheritance and succession, and land law.

(e) Promotion of a uniform customary law in which groups or individuals can identify and be bound by their traditional customary values.

4.6.8. Certified arbitrators, mediators and conciliators

The list of ADR practitioners shall be established and shall consist of names of arbitrators who may determine national and international disputes. The parties to any dispute submitted for resolution through ADR shall appoint the arbitrators(s) from amongst names persons whose names appear on the list.

This shall be part of the functions of the PACs in enhancing the quality of ADR services in areas of practice (see 4.6.4(ii)).

4.6.9. Strengthening the legal framework

The Policy proposes enactment of a comprehensive dispute resolution law (in the form of, say, a *Dispute Resolution Act*) and regulations for the specific forms of ADR, in particular mediation and conciliation. The legal framework shall make it clear it applies to individuals, partnerships, corporate bodies and state bodies. The legal framework will set out the objectives and broad principles of ADR, and establishment of the National ADR Council and its mandate. The legal framework will give effect to and operationalise the Policy.

In addition, the Policy recommends the following interventions:

(a) The enactment of distinct legislation to guide and direct the growth of and provide for mechanisms to strengthen the practice of:
   (i) mediation and conciliation (in the event a comprehensive *Dispute Resolution Act* is not taken on board).
   (ii) construction adjudication (as an emerging area of contentious disputes

(b) The enactment of amendments to the *Arbitration and Conciliation Act*, Cap 4 to align it with the Policy.

(c) The amendment of all laws that have existing provisions for ADR to align them to the Policy.

(d) The enactment of a code of ethics for arbitrators, mediators and conciliators setting out clear guidelines on, among others, conflict of interest, responsibilities, confidentiality, privileged.

(e) Introduce legislation that ensures the integration of the formal justice system with the informal justice system. The Policy is therefore framed by an understanding of linkages and coordination between the two systems in terms of:
   (i) the linkage between the ADR and court system with the objective of promoting autonomous operation and growth of the ADR sector.
   (ii) the linkage between court connected and non-court connected ADR mechanisms will be in areas of mutual benefit such as enforcement and referral.
   (iii) the encouragement of service providers in ADR, as good practice, to collaborate with each other towards the ends of dispute resolution.

(f) The enactment of a code of ethics for ADR practitioners, setting out clear guidelines on, among others, conflict of interest, responsibilities, confidentiality, etc.

(g) All new legislation enacted in the country shall, where appropriate, incorporate ADR provisions, and all amendment legislation shall, where appropriate, introduce ADR provisions where none exists in the amended legislation.

(h) The government consider ratification of the Singapore Convention on Mediation and take measures to domesticate its provisions in order to promote international mediation in Uganda.

4.6.10. Regulation and governance

The national development goal of the roll out of ADR must engender harmonization of the ADR sector. This shall require the strengthening the ADR sector regulation and governance as a matter of utmost importance. The ADR sector is faced with a patchwork of legislative and institutional frameworks, but with potential for growth as an organized discipline, with proper regulation and governance.

The Policy proposes a hybrid of *autonomous* self-regulation and *institutional* self-regulation in terms of:

(a) The national ADR Council should provide oversight of the sector and develop guiding principles and models of standards of training and practice.

(b) The Practice Area Committees (PACs) shall provide leadership and management of their areas of practice and, guided by the standards and guiding principles developed by national ADR Council, develop codes of ethics, training curricula, and establish certification mechanisms for practitioners in their areas of practice for approval.

(c) The PACs shall provide disciplinary oversight of practitioners in their areas and will towards these ends establish the appropriate mechanisms.

(d) The PACs shall report to the National ADR Council on governance and regulation in their practice areas.

4.6.11. Quality and standards of ADR practice

The Policy is framed by the need to foster quality and standards in ADR practice. The ADR sector should have peoples who have the requisite skills, training, standards of conduct and practice for ADR forms to be attractive dispute resolution choices. There shall be need for a level of professionalism and accountability which currently only exists in *ad hoc* forms, e.g., in ICAMEK-driven trainings, or occasional CLE-accredited training by the ULS.

To that end, there should be harmonization of standards and training of ADR practitioners to maintain quality and community of practice that is responsive to the expectations of the public as follows.

(i) Training

To promote and maintain an effective ADR sector, each person serving as a neutral ADR practitioner in an ADR process offering their service to the public, at a fee or on a *pro bono* basis, should be qualified and trained to serve as such in the ADR area of practice with an approved curriculum. Good training, and sufficient resources to maintain such training on an on-going basis, is important to create a qualified and respected ADR practitioners.

(ii) Accreditation

Accreditation is a form of quality control, it helps to determine the technical competence, reliability and integrity required to ensure quality services by ADR practitioners.

There will be a two-tier accreditation model for the sector as follows:

(a) *General accreditation* which will be given by institutions certified by the national ADR Council as accrediting institutions for specific areas of practice.

(b) *Specialist accreditation* shall be given by institutions certified by the national ADR Council in consultation with PACs as accrediting institutions for specialized areas of practice. This will be further accreditation intended for practitioners who intend to practice under institutions such as Mediation Accreditation Committee of the Court Annexed Mediation which will requires their practitioners to undergo further specialist training and accreditation.

The accreditation rules shall be developed by the national ADR Council in consultation with PACs and other stakeholders.

In adapting the two-tier accreditation model, the national ADR Council should implement a recognition and cross-registration standard to balance the requirements for specialist accreditation and the need to safeguard the interests of the professional against duplication of training and costs of accreditation.

(iii) CLE and CPD

The National ADR Council shall, in collaboration with PACs, develop and administer CLE or CPD programs. An accredited ADR practitioner is to be required to undertake ongoing CLE or CPD programs, which may include attending a certain number of training work-shops within a particular period.

(iv) Institutional ADR providers

All institutional providers of ADR services will be required to register with the National ADR Council, and obtain a certificate of registration as an institutional ADR service provider. The National ADR Council shall, in collaboration with stakeholders, develop the criteria and preconditions for the certification, standards and provide for codes of conduct, renewal, de-certification, and other matters incidental to the registration.

(v) Standard Operating Procedures (SOPs)

PACs shall, in collaboration with the National ADR Council, develop and integrate in training curricula, standard Operating Procedures (SOPs) for special, sensitive and unique cases involving vulnerable groups and persons.

(vi) Timeframes for ADR processes

The PACs shall provide guidance as on average time frames for ADR matters in their areas of practice for purpose of maintaining as much as possible the quality of timelines of ADR. The guidance shall be part of the developing ADR standards and internal rules of process.

(vii) Duty recognition and limitation of liability of ADR practitioners

Any ADR legislation (e.g., *Dispute Resolution Act*) should provide for the duty of care and, protection and immunity for practitioners, institutions, and staff in providing professional services.

4.6.12. Recognition and enforcement of ADR decisions

The policy should create a robust environment where ADR can develop and grow, and a culture emerges for self-enforcement of ADR outcomes as the default. To that end, benefits of ADR will be fully realized where parties see avenues for recourse to enforce the outcomes of applying the mechanisms in the event of non-performance.

The Policy calls for recognition and enforcement models adapted in legislation to include the following interventions:

(a) Put in place a law to integrate formal and informal justice mechanisms by ensuring that decisions made outside the formal justice system are recognized by courts.

(b) The Judiciary establishes a special ADR registry (*see* 4.6.6. above) and depository for expeditious registration and depositing of ADR settlement agreements for parties who may wish to register and deposit their ADR agreements.

(c) In establishing the special ADR Registry (and depository), the judiciary is encouraged to develop systems to promote confidentiality of ADR parties.

(d) The Judiciary is also encouraged to establish special mechanisms for express adoption of ADR awards and settlements that are provided for by law.

4.6.13. Capacity building

One of the biggest challenge to the progress of ADR in Uganda is the lack of capacity building for ADR practitioners. To address the challenge this policy guides as follows.

(i) Additional training and mentoring of new practitioners

The Policy positions the National ADR Council to lead in the design of content of additional training to encompass techniques of documentation, dispute resolution, procedure, human rights, professional standards and ethics, and any emerging ADR matters. The Council may

undertake this leadership in collaboration with national, regional, and international ADR institutions.

Every new ADR practitioner shall be required, over and above the professional training, to complete an *additional training* and *mentorship programme* for such a period as the Council may from time to time prescribe.

The National ADR Council and accredited institutions, in liaison with PACs, shall:

(a) Establish effective procedures for selection, training and oversight of newly trained ADR practitioners.
(b) Organize other trainings for practitioners on relevant matters.
(c) Organize Training of Trainers.
(d) Collaborate with CSOs and institutional ADR providers to establish mentoring programmes for newly trained practitioners.

(ii) Training for relevant government officers and agencies

ADR Practitioners capacity will be improved by through capacity building programmes for officers and agencies who are already carrying out ADR services of who are otherwise strategically situated to offer these to members of the public in the course of their normal work. These shall include, among others, the police, Court Users Committees, judicial officers (Judges, magistrates, registrars, etc.), labour officers, probation officers, chambers of commerce and industry.

(iii)ADR Users Guide

The National ADR Council shall, in consultation with PACs, develop an ADR guide for users of ADR services detailing key principles of ADR, glossary of terms of ADR, different ADR forms and their benefit. An online version will available and updated regularly in tandem with the ADR sector developments. The Council should ensure the ADR guide is translated in local languages to enable those who cannot understand English learn about ADR.

4.6.14. ICT

The National ADR Council shall, in consultation with PACs promote the use of ICT in ADR and towards this end, commission a study on the same, and develop and review periodically an ICT strategy for the ADR sector.

4.6.15. Increasing uptake of ADR services

Practice in a modern justice systems dictate that while promoting access to justice, the justice systems should offer a variety of approaches and options to dispute resolution. The Public should be empowered to find a satisfactory solution to their problem which includes the option of a court-based litigation but as part of a wider menu of choices

The challenges associated with the normal resolving of disputes through litigation such as the high transactional costs, undefined time for resolving of disputes, case backlogs among others are an impediment to access of justice for all.

The Policy recognizes that ADR offers an opportunity for access of justice to all. To ensure that the ADR sector is attractive and ensure quality professional attractive, the remuneration ADR practitioners should be attractive and at the same reasonable to not make the service unaffordable to most of the public.

(i) ADR clauses in contracts

The National ADR Council and PACs shall popularize, as a good practice, the inclusion of escalation ADR clauses in commercial contracts. To that end, in commercial transactions, parties entering into small and medium-sized commercial transactions will be encouraged to include ADR clauses in their agreements.

The Attorney General's Chambers shall provide leadership to all government MDAs to ensure the effective use and deployment of ADR.

(ii) Compulsory pre-court ADR for some matters

The Judiciary, in conjunction with the National ADR Council and collaboration of other stakeholders, will establish guidelines on civil and criminal matters for which court adjudication will not be available at the first instance, and which must be first submitted to ADR.

(iii)Pre-litigation ADR incentivization scheme

The Judiciary, in consultation with stakeholders, should establish an incentivization scheme for court users to attempt ADR as the default mechanism before resort to court. The scheme may include, among other best practice incentives, pre-litigation protocols and costs sanctions.

(iv)ADR in education and training curricula

The National ADR Council, in collaboration with the Ministry of Education and Sports (and other relevant state actors) shall seek to ensure ADR is integrated into the national school curriculum at all levels as a core subject, and in specialist training curriculum such as, among others, for the disciplined forces and local administration officers.

(v) ADR policy for NGO and private entities

All non-governmental and private entities should be encouraged, as a good practice to develop institutional ADR policies, and where possible support for their development.

(vi) Public awareness

The National ADR Council, in liaison with the PACs, shall organize public awareness programmes on ADR, in collaboration with county governments, regional administration and various agents of social change including: the media, faith-based organisations; schools' system and CSOs. Furthermore, the Council should create an effective outreach and education program to reach actual and potential ADR users.

(vii) Local government's role

Local governments are encouraged to support ADR centers in their regions, and to promote ADR public awareness and sensitization.

(viii) Promoting innovation in ADR

The National ADR Council, together with stakeholders, shall promote innovation, learning and integration of other types of ADR not yet adopted in Uganda as shall be appropriate.

(ix) Role of tribunals

Tribunals are encouraged where applicable, to establish a mandatory ADR door through which all disputants must pass before submitting their disputes to tribunals, except those seeking urgent injunctive relief. This is the underlying essence of the 2022 tax procedures

(ADR) regulations. The ADR door shall be within the tribunal or through linkage with ADR providers including the Judiciary ADR Centre. To this end, the tribunals should (a) create support services to overcome user barriers, and (b) establish effective procedures for the utilization of ADR.

4.6.16. Research

The National ADR Council and PACs shall initiate research programmes and collaborate with academia and stakeholders on various areas of ADR to generate information that will inform growth and development of the sector.

The National ADR Council and PACs will develop a strategy for knowledge management within practice areas and in the ADR sector generally, including, among others:

(a) Identifying and disseminating lessons learnt and good practices in collaboration with all stakeholders.

(b) Ensuring technical skills and knowledge are shared among all stakeholders.

(c) Establishing, managing, and monitoring a sectoral knowledge platform and innovative approaches in practice areas, and stakeholder institutions.

4.6.17. Community of practice

The National ADR Council and PACs will jointly and separately organize forums for the sharing of ADR knowledge and building cohesion, and community of practice in the ADR sector and respective practice areas.

PART V: POLICY IMPLEMENTATION ARRANGEMNETS

The national ADR Policy is the framework for the development of the ADR. Thus the Policy recommends as follows:

(a) The Policy must be internalized, popularized, translated and widely disseminated to enable the achievement of its objectives.

(b) Establish effective procedures for selection, training, and oversight of mediators and arbitrators.

(c) Find or create a sustainable source of financial support.

(d) Establish effective procedures for case selection and management.

(e) Establish effective procedures for program evaluation.

5.1. National Action Plan

A five-year term national action plan (NAP) will be developed by the National ADR Council to guide the implementation of the policy. Annual operational plans will be developed to guide and pace NAP implementation.

5.2. Resourcing

The Government shall integrate ADR into the national budget resource allocation cycle and through the National ADR Council collaborate with the PACs and other stakeholders to facilitate resource mobilisation for implementation of the Policy. The resourcing of the Policy should be guided by:

(a) The National Government shall allocate funding for the implementation of the Policy.

(b) The National ADR Council shall also actively source funding from alternative sources including:

(i) Private sector funding
(ii) Development partners
(iii) Voluntary organizations, e.g. NGOs, CSOs, foundations.

5.3. Monitoring and Evaluation

A monitoring and evaluation (M&E) framework will be developed to evaluate the progress made in the implementation of this policy. The National ADR Council shall prepare annual M&E reports and share with all stakeholders on the implementation progress.

The National ADR Council shall report to Parliament once every year on the implementation of the Policy.

5.4. Policy Review

The Policy will be reviewed periodically and at least once in each national action plan (NAP) period to take stock of progress made in its implementation. This process will be undertaken in a participatory manner and in collaboration with the ADR sector stakeholders.

5.5. Cost implications of the Policy

[TO ADD]